

1 APPEARANCES:

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10 REPRESENTING THE DEFENDANT, CAPMARK FINANCE, INC
WILLIAM F. ALDINGER, III

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1 THE CLERK: ALL RISE.

2 THE COURT: MISS MICKIE, PLEASE SWEAR IN
3 THE JURY.

4 (THE JURY IS SWORN IN.)

5 THE COURT: YOU MAY BE SEATED, LADIES AND
6 GENTLEMEN. GOOD AFTERNOON. LADY AND GENTLEMEN, YOU
7 HAVE NOW BEEN SWORN IN THE JURY TO TRY THIS CIVIL CASE
8 IN WHICH THE PLAINTIFF, WANDA JAMES SPEIGHT, VERSUS
9 CAPMARK FINANCIAL, INC., THE DEFENDANT, IS -- SHE IS
10 SUEING THE DEFENDANT BASED ON A CLAIM OF RACE
11 DISCRIMINATION, PURSUANT TO HER TERMINATION FROM
12 EMPLOYMENT IN VIOLATION OF TITLE 42 UNITED STATES CODE,
13 SECTION 1981.

14 YOUR OATH AS A JUROR HAS COMMITTED EACH
15 OF YOU TO BE AN ACTIVE PARTICIPANT IN THE ADMINISTRATION
16 OF JUSTICE. THE TRIAL WILL DEVELOP QUESTIONS OF FACTS
17 UPON WHICH THE PARTIES DO NOT AGREE. IT IS YOUR DUTY AS
18 JURORS AND YOURS ALONE TO DETERMINE THE FACTS FROM THE
19 EVIDENCE PRESENTED DURING THE TRIAL. QUESTIONS OF
20 PROCEDURE AND OF THE LAW TO BE APPLIED TO THE FACTS WILL
21 ALSO OCCUR IN THE COURSE OF THE TRIAL.

22 IT IS MY DUTY AS THE TRIAL JUDGE TO MAKE
23 CERTAIN THAT THE TRIAL IS CONDUCTED PROPERLY AND
24 ACCORDING TO RULES OF LAW AND I WILL INSTRUCT YOU AFTER
25 ALL OF THE EVIDENCE HAS BEEN SUBMITTED AS TO THE LAW

1 WHICH YOU WILL APPLY TO THIS CASE.

2 NOW, WE WILL TELL YOU SOME GENERAL THINGS
3 ABOUT THE PROCEDURE WE WILL FOLLOW AND HOW YOU ARE TO
4 PERFORM YOUR DUTIES.

5 FIRST, THE PLAINTIFF'S ATTORNEY MAY MAKE
6 AN OPENING STATEMENT OUTLINING THE PLAINTIFF'S CASE.
7 IMMEDIATELY THEREAFTER THE DEFENDANT'S ATTORNEY MAY ALSO
8 MAKE AN OPENING STATEMENT OUTLINING HIS DEFENSE, OR HE
9 MAY POSTPONE IT. THE PLAINTIFF INTRODUCES HER EVIDENCE
10 FIRST, AND WHEN SHE HAS FINISHED, THE DEFENDANT MAY
11 PRESENT THEIR EVIDENCE.

12 WITNESSES AND EVIDENCE MAY BE CALLED IN
13 REBUTTAL. THE DIRECT EXAMINATION OF WITNESSES IS
14 CONDUCTED BY THE ATTORNEY CALLING THE WITNESS, AND ALL
15 WITNESSES MAY BE CROSS-EXAMINED BY OPPOSING COUNSEL. I
16 MAY ASK QUESTIONS OF A WITNESS IN ORDER TO OBTAIN
17 INFORMATION OR BRING OUT SOME FACTS NOT FULLY DEVELOPED
18 BY THE TESTIMONY.

19 AT THE END OF ALL OF THE EVIDENCE, THE
20 ATTORNEYS MAY MAKE THEIR CLOSING ARGUMENT OR SUMMATION
21 TO YOU. IN THESE ARGUMENTS THE ATTORNEYS WILL GIVE YOU
22 THEIR VIEWS ON WHAT THE EVIDENCE PROVES ON THE QUESTIONS
23 YOU HAVE TO DECIDE, AND THESE ARGUMENTS SHOULD BE GIVEN
24 DUE CONSIDERATION. BUT THEY ARE NOT EVIDENCE. ONLY THE
25 EVIDENCE WHICH HAS BEEN ADMITTED DURING THE TRIAL CAN BE

1 CONSIDERED BY YOU IN DETERMINING THE FACTS. THE
2 ADMISSION OF EVIDENCE IN COURT IS GOVERN BY RULES OF
3 LAW.

4 DURING THE TRIAL, THE ATTORNEYS MAY DEEM
5 IT NECESSARY TO MAKE AN OBJECTION, AND IT THEN BECOMES
6 MY DUTY TO RULE ON THOSE OBJECTIONS AND TO DECIDE
7 WHETHER CERTAIN EVIDENCE CAN BE ADMITTED FOR YOUR
8 CONSIDERATION. YOU MUST NOT CONCERN YOURSELF WITH THE
9 OBJECTIONS OR MY REASONS FOR MY RULINGS. YOU MUST NOT
10 CONSIDER TESTIMONY OR EXHIBITS TO WHICH I HAVE SUSTAINED
11 AN OBJECTION OR WHICH I HAVE ORDERED STRICKEN FROM THE
12 RECORD.

13 NONE OF MY RULINGS SHOULD BE REGARDED AS
14 AN INDICATION OF MY OPINION AS TO WHAT YOUR FINDINGS
15 SHOULD BE. YOU SHOULD NOT TAKE ANY QUESTIONS I MAY ASK
16 WITNESSES AS ANY INDICATION OF MY OPINION AS TO HOW YOU
17 SHOULD DETERMINE THE ISSUES OF FACTS. ANY OPINION WHICH
18 YOU THINK I MAY HAVE AS TO THE FACTS WOULD NOT BE AT ALL
19 IMPORTANT. FOR YOU AND YOU ALONE ARE THE SOLE FINDERS
20 OF THE FACTS.

21 LADY AND GENTLEMEN, YOU MUST CONSIDER AND
22 WEIGH THE TESTIMONY OF EACH WITNESS AND GIVE IT SUCH
23 WEIGHT AS IN YOUR JUDGMENT IT IS FAIRLY ENTITLED TO
24 RECEIVE.

25 THE MATTER OF THE CREDIBILITY OF A

1 WITNESS; THAT IS, WHETHER HIS OR HER TESTIMONY IS
2 BELIEVABLE IN WHOLE OR IN PART IS SOLELY FOR YOUR
3 DETERMINATION. I WILL MENTION SOME OF THE FACTORS WHICH
4 MIGHT BEAR IN SUCH DETERMINATION.

5 WHETHER THE WITNESS HAS ANY INTEREST IN
6 THE OUTCOME OF THE CASE OR HAS FRIENDSHIP OR ANIMOSITY
7 TOWARD OTHER PERSONS CONCERNED IN THE CASE; THE BEHAVIOR
8 OF THE WITNESS ON THE WITNESS STAND AND HIS OR HER
9 DEMEANOR; THE WITNESS' MANNER OF TESTIFYING AND WHETHER
10 HE OR SHE SHOWS ANY BIAS OR PREJUDICE WHICH MIGHT COLOR
11 HIS OR HER TESTIMONY; THE ACCURACY OF THE WITNESS'
12 MEMORY AND RECOLLECTION; THE WITNESS' ABILITY AND
13 OPPORTUNITY TO ACQUIRE KNOWLEDGE OF OR TO OBSERVE THE
14 MATTERS CONCERNING WHICH HE OR SHE TESTIFIES; THE
15 CONSISTENCY OR INCONSISTENCY OF A WITNESS' TESTIMONY, AS
16 WELL AS REASONABLENESS OR UNREASONABLENESS IN LIGHT OF
17 ALL OF THE EVIDENCE IN THE CASE.

18 IN CIVIL CASES SUCH AS THIS ONE THE
19 PLAINTIFF HAS THE BURDEN OF PROVING THOSE CONTENTIONS
20 WHICH ENTITLE HER TO RELIEF. WHEN A PARTY HAS THE
21 BURDEN OF PROOF ON A PARTICULAR ISSUE, HIS CONTENTION ON
22 THAT ISSUE MUST BE ESTABLISHED BY A FAIR PREPONDERANCE
23 OF THE EVIDENCE. THE EVIDENCE ESTABLISHES A CONTENTION
24 BY A FAIR PREPONDERANCE OF THE EVIDENCE IF YOU ARE
25 PERSUADED THAT IT IS MORE PROBABLY ACCURATE AND TRUE

1 THAN NOT.

2 TO PUT IT ANOTHER WAY, LADY AND
3 GENTLEMEN, THINK IF YOU WILL, OF AN ORDINARY BALANCE
4 SCALE WITH A PAN ON EACH SIDE. ONTO ONE SIDE OF THE
5 SCALE PLACE ALL OF THE EVIDENCE FAVORABLE TO THE
6 PLAINTIFF, ONTO THE OTHER PLACE ALL OF EVIDENCE
7 FAVORABLE TO THE DEFENDANT. IF, AFTER CONSIDERING
8 CAPABLE WEIGHT OF THE EVIDENCE, YOU FEEL THAT THE SCALES
9 TIP EVER SO SLIGHTLY OR TO THE SLIGHTEST DEGREE IN FAVOR
10 OF THE PLAINTIFF, YOUR VERDICT MUST BE FOR THE
11 PLAINTIFF. IF THE SCALES TIP IN FAVOR OF THE DEFENDANT
12 OR ARE EQUALLY BALANCED YOUR VERDICT MUST BE FOR THE
13 DEFENDANT.

14 MEMBERS OF THE JURY, YOU ARE NOT
15 PERMITTED TO TAKE NOTES ON THE TESTIMONY OR, ON ANYTHING
16 SAID BY ME OR COUNSEL. WHEN YOU DELIBERATE ON YOUR
17 VERDICT, YOU WILL HAVE TO RELY ON YOUR OWN MEMORIES OF
18 WHAT WAS SAID IN THE COURTROOM. WE HAVE A COURT
19 REPORTER WHO WILL MAKE A RECORD OF THE TESTIMONY. IF
20 YOU FAIL TO HEAR A QUESTION OR AN ANSWER WHILE A WITNESS
21 IS TESTIFYING, RAISE YOUR HAND IMMEDIATELY. THE
22 REPORTER CAN READ BACK WHATEVER YOU MISSED.

23 AFTER YOU GO TO THE JURY ROOM TO
24 DELIBERATE ON YOUR VERDICT, IF YOU FIND THAT YOUR
25 RECOLLECTION OF PARTICULAR TESTIMONY HAS BECOME CONFUSED

1 OR UNCERTAIN, I MAY -- AND I REPEAT THAT, I MAY, AT YOUR
2 REQUEST, PERMIT THE REPORTER TO READ THAT TESTIMONY BACK
3 TO YOU. HOWEVER, YOU OUGHT NOT TO RELY ON GETTING THIS
4 KIND OF HELP FROM THE COURT REPORTER. LISTEN
5 ATTENTIVELY TO EVERY WITNESS SO THAT THE TESTIMONY WILL
6 BE CLEAR IN YOUR MINDS.

7 MEMBERS OF THE JURY, DO NOT DISCUSS THIS
8 CASE OR ANYTHING CONNECTED WITH IT AMONG YOURSELVES
9 UNTIL ALL OF THE EVIDENCE IS IN AND YOU HAVE RECEIVED
10 THE FINAL INSTRUCTIONS FROM ME AND HAVE RETIRED TO THE
11 JURY ROOM FOR DELIBERATIONS TO REACH YOUR VERDICT. DO
12 NOT PERMIT OTHERS TO DISCUSS THIS CASE WITH YOU OR IN
13 YOUR PRESENCE. IF SUCH A THING SHOULD OCCUR, YOU SHOULD
14 ADVISE ME PROMPTLY. IN ADDITION, DO NOT TALK TO COUNSEL
15 OR THE PARTIES OR WITNESSES ON ANY SUBJECT. IF YOU WERE
16 TO DO SO, EVEN THOUGH INNOCENTLY, IT COULD BE
17 MISINTERPRETED AND COULD CREATE SERIOUS PROBLEMS.

18 COUNSEL AND I ARE REQUIRED TO TAKE UP
19 CERTAIN MATTERS OUT OF YOUR HEARING. THEY ARE KNOWN AS
20 SIDEBAR CONFERENCES. WE MAY COME HERE TO THE SIDE OF
21 THE BAR. THIS IS KNOWN AS A BAR IN COURTROOM PARLANCE.
22 WE MAY COME OVER HERE TO THE SIDE OF THE BAR AND HAVE A
23 CONFERENCE WITH COUNSEL AND MYSELF OUT OF YOUR HEARING,
24 OR I MAY ASK YOU TO RETURN TO THE JURY ROOM AND HAVE THE
25 WHOLE USE OF THE COURTROOM OR COUNSEL AND I MAY GO TO MY

1 CHAMBERS, WHICH IS LOCATED ON THE OTHER SIDE OF THAT
2 DOOR AND ACROSS THE HALL, ALL RIGHT. UNDER ANY OF THESE
3 SCENARIOS, YOU ARE NOT TO CONCERN YOURSELF WITH THE
4 THESE SIDEBAR CONFERENCES. THEY DEAL WITH ISSUES AND
5 MATTERS OF LAW THAT ARE NOT FOR YOUR HEARING, IS THAT
6 UNDERSTOOD? VERY GOOD.

7 LADY AND GENTLEMEN, WE NORMALLY START
8 COURT HERE EACH MORNING AT 9:30. WE WILL PROCEED TO
9 APPROXIMATELY AROUND 11 O'CLOCK WHERE WE WILL HAVE A TEN
10 OR 15-MINUTE BREAK, THEN WE WILL PROCEED TO 12:30,
11 QUARTER OF 1, 1:00, BEFORE WE BREAK FOR LUNCH. YOU WILL
12 HAVE AN HOUR FOR LUNCH EACH DAY. WE WILL RESUME
13 APPROXIMATELY 1:30, AND THEN WE WILL GO TO APPROXIMATELY
14 3 O'CLOCK WHERE WE WILL HAVE A 10 OR 15-MINUTE BREAK AND
15 THEN WE WILL GO TO THE END OF THE DAY, WHICH IS NORMALLY
16 4:35, QUARTER OF 5, 5:00, OKAY, DEPENDING ON YOUR
17 TRANSPORTATION SCHEDULE. I HAVE NOT LOOKED AT YOUR
18 AREAS WHERE YOU COME FROM, BUT SOME MAY COME AS FAR AWAY
19 AS READING OR FURTHER OUT IN LANCASTER COUNTY THAT NEED
20 AN OPPORTUNITY TO CATCH A TRAIN TO BE HOME BY A
21 REASONABLE TIME. WE WILL ACCOMMODATE YOU, IF THAT IS
22 THE CASE.

23 I HAVE ENDEAVORED TO DO EVERYTHING IN MY
24 POWER TO LIST EVERYTHING ELSE THAT I HAVE SCHEDULED FOR
25 THIS WEEK. I DON'T HAVE THE LUXURY OF HAVING ONE THING

1 SCHEDULED. SO THEY ARE LISTED BEFORE WE START EACH
2 MORNING, DURING MY LUNCH BREAK, YOUR LUNCH BREAK, OR AT
3 THE END OF THE DAY WHEN YOU ARE GONE. WE HAVE SOMETHING
4 LISTED TODAY, BUT WE WON'T TAKE IT UNTIL APPROXIMATELY
5 4:30, SO IT SHOULD NOT INTERRUPT WITH THE TRIAL.

6 IF, AT ANY TIME, DURING THE COURSE OF
7 THESE PROCEEDINGS YOU NEED TO BRING ANYTHING TO MY
8 ATTENTION, YOU CAN DO SO BY LETTING MY DEPUTY CLERK,
9 MISS MICKIE, WHO JUST SWORE YOU IN, WHOSE OFFICE IS
10 LOCATED ADJACENT FROM YOUR JURY ROOM. LET HER KNOW OR
11 LET THE COURT REPORTER KNOW. TODAY I HAVE HAD THE
12 PLEASURE AND EXPERIENCE OF HAVING MISS FELDMAN HERE
13 EARLIER THIS MORNING/AFTERNOON, AND NOW I HAVE MISS
14 WHITE HERE. NEITHER OF THEM ARE MY REGULAR COURT
15 REPORTER. HE IS OUT TODAY, AND HE WILL BE BACK IN
16 BEFORE THIS TRIAL IS OVER. BUT LET ANY OF THE COURT
17 REPORTERS KNOW, AND THEY WILL LET ME KNOW THAT YOU NEED
18 TO HAVE SOMETHING ADDRESSED.

19 LADY AND GENTLEMEN, I WILL DO EVERYTHING
20 IN MY POWER TO MOVE THIS CASE AS QUICKLY AND AS
21 EFFICIENTLY AS POSSIBLE. IN THAT REGARD, I NEED YOUR
22 HELP AND ASSISTANCE. SO WHEN I ASK YOU TO BE BACK LIKE
23 TODAY, AT A QUARTER OF TWO, WHICH YOU ALL MET THE
24 STANDARDS, I DON'T WANT YOU GOING THROUGH THE METAL
25 DETECTORS DOWNSTAIRS AT QUARTER OF 2. I WANT YOU IN THE

1 JURY BOX. SO TOMORROW MORNING WHEN WE START AT 9:30, I
2 EXPECT ALL COUNSEL, THE PARTIES, THE WITNESSES, TO BE
3 HERE, TO BE READY TO GO, AND WE WILL MOVE THIS CASE
4 THROUGH. I KNOW IT'S AN INCONVENIENCE FOR YOU TO
5 PARTICIPATE WITH YOUR OTHER MATTERS IN YOUR OTHER LIFE,
6 BUT WE WILL MOVE THIS ALONG QUICKLY, IS THAT UNDERSTOOD?

7 SO SAYING, THAT CONCLUDES THE COURT'S
8 OPENING INSTRUCTION.

9 COUNSEL FOR MS. SPEIGHT, WHO WISHES TO
10 OPEN?

11 MR. SALMANSON: GOOD AFTERNOON. MAY IT
12 PLEASE THE COURT AND LADY AND GENTLEMEN OF THE JURY, AS
13 YOU KNOW FROM YOUR VOIR DIRE THIS MORNING, MY NAME IS
14 MIKE SALMANSON, ONE OF THE MANY MIKES IN THIS CASE. I,
15 ALONG WITH MY PARTNER, SCOTT GOLDSHAW, HAVE THE
16 PRIVILEGE OF REPRESENTING WANDA SPEIGHT IN THIS LAWSUIT.

17 MISS SPEIGHT ALLEGES THAT CAPMARK
18 DISCRIMINATED AGAINST HER ON THE BASIS OF HER RACE WHEN
19 IT ABRUPTLY ENDED HER STELLAR SEVEN-YEAR CAREER AT GMAC,
20 WITHOUT WARNING, ULTIMATELY BECAUSE OF A SINGLE E-MAIL
21 SHE SENT. WE ARE GOING TO SHOW YOU THAT E-MAIL THIS
22 AFTERNOON.

23 YOUR JOB AS JURORS WILL BE TO DETERMINE
24 IF THAT E-MAIL WOULD HAVE GOTTEN A WHITE PERSON IN HER
25 POSITION FIRED AS WELL. UNLIKE MANY CASES, THERE IS

1 ACTUALLY A LOT ON WHICH THE PARTIES AGREE; MISS SPEIGHT
2 IS AFRICAN-AMERICAN, FOR EXAMPLE. NO SURPRISE.
3 MISS SPEIGHT JOINED THE COMPANY, NOVEMBER 1998. UNTIL
4 SHE WAS TERMINATED IN MAY OF 2006, HER PERFORMANCE WAS
5 FLAWLESS AND WITHOUT ANY INCIDENT. SHE NEVER HAD BEEN
6 DISCIPLINED, REPRIMANDED, OR EVEN REALLY CRITICIZED.

7 SHE CONSISTENTLY RECEIVED PROMOTIONS.
8 SHE TOOK ON MORE AND MORE AND YET MORE RESPONSIBILITY.
9 BY 2006, BEFORE HER TERMINATION, HER HARD WORK HAD FULLY
10 PAID OFF, AND QUITE HANDSOMELY. I HOPE YOU ARE NOT
11 GOING TO BE SHOCKED BY THIS, BUT THE PROOF IS THAT IN
12 HER LAST YEAR HER COMBINED BONUSES FOR HER 2005
13 PERFORMANCE WAS \$500,000, AND THAT WAS ON TOP OF HER IN
14 EXCESS OF \$100,000 SALARY.

15 NOW, MISS SPEIGHT WAS IN CHARGE OF
16 SOMETHING CALLED THE OFFSET MANAGEMENT FUNCTIONS FOR
17 SOMETHING CALLED PROPRIETARY LENDING GROUP OR PLG. ONE
18 THING YOU ARE GOING TO HEAR A LOT OF IS CAPMARK LOVES TO
19 USE ACRONYMS, SO HOPEFULLY YOU WILL BE ABLE TO KEEP THEM
20 STRAIGHT IN YOUR HEAD.

21 HER GROUP WAS CALLED THE PROPRIETARY
22 LENDING GROUP, PLG. WHAT MISS SPEIGHT DID WAS SHE
23 OVERSAW A GROUP OF APPROXIMATELY 20 INDIVIDUALS KNOWN AS
24 ASSET MANAGERS. HER GROUP MANAGED THE COMPANY'S OWN
25 LOANS, UNLIKE OTHER DEPARTMENTS; IN OTHER WORDS, THE

1 COMPANY HAD ACTUALLY LENT THE MONEY TO A BORROWER AND
2 HELD THE MORTGAGE. YOU MAY HEAR THESE LOANS CALLED
3 BALANCE SHEET LOANS, BECAUSE THE LOANS WERE ACTUALLY ON
4 THE COMPANY'S BALANCE SHEETS, AND THEY WERE A COMPANY
5 ASSET. BECAUSE THE COMPANY'S OWN MONEY WAS AT RISK, IF
6 THE BORROWER COULD NOT PAY THE MONEY BACK, THE ASSET
7 MANAGERS WERE RESPONSIBLE FOR KEEPING THE CAREFUL WATCH
8 OVER THE BORROWERS AND THEIR PROPERTIES IN MAKING SURE
9 THAT THE COMPANY KNEW IF THE BORROWER WAS AT RISK OF
10 NONPAYMENT OR DEFAULT.

11 MISS SPEIGHT'S TEAM DID THIS BY
12 PERFORMING SOMETHING CALLED RISK RATINGS. YOU ARE GOING
13 TO HEAR A LOT ABOUT THOSE. THE RISK RATINGS ARE THE
14 LOANS THEY OVERSAW, WHICH THEY REPORTED TO THE CREDIT
15 DEPARTMENT AMONG OTHERS. THE CREDIT DEPARTMENT RELIED
16 ON THE ACCURACY OF THESE RATINGS TO DECIDE WHETHER AND
17 HOW MUCH MONEY THEY NEEDED TO PUT ASIDE IN RESERVES IN
18 THE EVENT OF DEFAULT, OR WHETHER AND HOW TO MAKE NEW
19 LOANS TO THE SAME BORROWER.

20 MISS SPEIGHT WAS REQUIRED TO DEFEND HER
21 DEPARTMENT'S RISK RATING, NOT ONLY TO THE CREDIT
22 DEPARTMENT AND INTERNALLY, BUT TO THE COMPANY'S OUTSIDE
23 AUDITORS. EVERYONE, I THINK, WILL AGREE THAT GETTING
24 THE RISK RATINGS DONE RIGHT IS CRITICAL FOR THOSE
25 REASONS. THERE WERE OTHER DEPARTMENTS WITHIN GMAC CM

1 THAT PERFORMED OTHER FUNCTIONS. ONE OF THOSE
2 DEPARTMENTS WAS KNOWN AS GLOBAL SERVICING. YOU WILL
3 HEAR THAT, IN GENERAL, THE SERVICING DEPARTMENT ACTUALLY
4 SERVICED LOANS FOR OTHER LENDERS FOR THE MOST PART. IN
5 OTHER WORDS, ANOTHER BANK OR ENTITY WAS LENDING THE
6 MONEY TO THE BORROWER AND THEY HIRED CAPMARK. AND, AS
7 YOU HEARD IN VOIR DIRE, GMAC CM BECAME CAPMARK, SO WE
8 ARE GENERALLY GOING TO REFER TO IT AS CAPMARK.

9 BUT THEY HIRED CAPMARK TO DO ROUTINE
10 TASKS, SUCH AS COLLECTING THE MORTGAGE PAYMENTS, PAYING
11 THE ESCROW PAYMENTS OUT TO THE TAXING AUTHORITIES OR
12 PAYING THE TAXES AND GM OR CAPMARK WOULD GET A FEE FOR
13 THIS. BUT IF THE BORROWER DEFAULTED, IT WAS NOT
14 CAPMARK'S OWN MONEY THAT WAS LOST.

15 IN EARLY 2006, THINGS CHANGED. WHAT WAS
16 THEN GMAC CM WAS SOLD IN PART TO PRIVATE INVESTORS, AND
17 THEY CHANGED THEIR NAME TO CAPMARK. THE NEW INVESTORS
18 NOT SURPRISINGLY HAD INTEREST IN MAKING SURE THE COMPANY
19 WAS WORKING AS EFFICIENTLY AS POSSIBLE. MANY IDEAS WERE
20 PUT ON THE TABLE, AND ONE OF THEM WAS THAT
21 MISS SPEIGHT'S GROUP OF PLG ASSET MANAGERS WOULD BE
22 TRANSFERRED INTO THE SERVICING DEPARTMENT. THEY HAD NOT
23 BEEN IN SERVICING BEFORE.

24 AT THE END OF MARCH, MISS SPEIGHT WAS
25 ADVISED OF THIS AND AFTER MEETING MIKE LIPSON, WHO'S THE

1 HEAD OF GLOBAL SERVICING, AGREED WITH THE CONCEPT THAT
2 HER FOLKS WOULD MOVE OVER. OVER THE NEXT SEVERAL WEEKS,
3 SEVERAL THINGS HAPPENED. FIRST, A NEW GROUP WAS FORMED
4 WITHIN GLOBAL SERVICING KNOWN AS REAL ESTATE SOLUTIONS,
5 OR, YOU WILL HEAR AGAIN, THE ACRONYM, RES. RES WAS
6 FORMED TO HANDLE SOME OF THE MORE COMPLEX LOANS THAT
7 SERVICING TRADITIONALLY HANDLED. THE HEAD OF RES
8 WAS AN INDIVIDUAL NAME MICHAEL CARP.

9 ONE ISSUE WAS WHETHER ALL OR PART OF MISS
10 SPEIGHT'S GROUP WOULD WORK UNDER MICHAEL CARP UNDER RES,
11 OR, IF NOT, THEY WOULD REPORT TO ANOTHER INDIVIDUAL
12 NAMED MARK MCCOOL. ANOTHER ISSUE WAS WHETHER RES AND
13 PLG WERE BOTH DOING THE SAME SORTS OF JOBS AND WHETHER
14 THOSE FUNCTIONS SHOULD BE REASSIGNED TO ONE GROUP OR THE
15 OTHER SO THEY WERE NOT DOING ESSENTIALLY THE SAME TASK
16 IN AN EFFICIENT WAY.

17 IN THE MEANTIME, MISS SPEIGHT LEARNED
18 THAT WHEREVER SHE ENDED UP HER GROUP WAS GOING TO TAKE
19 OVER A WHOLE NEW SET OF LOANS WHICH HAD BEEN CALLED --
20 WHICH HAD BEEN PART OF SOMETHING CALLED THE SPG LOAN
21 PORTFOLIO, YET ANOTHER ACRONYM. THE LOANS HAD BEEN
22 ASSET MANAGED BY ANOTHER GROUP ENTIRELY OUT IN DENVER,
23 AND MOST OF THE PROPERTIES IN THAT PORTFOLIO WERE IN
24 COLORADO. LOANS IN THE PROPERTIES WERE VERY COMPLEX AND
25 WOULD REQUIRE CAREFUL MANAGEMENT. AND MISS SPEIGHT WAS

1 ADVISED OF THIS, EVEN BEFORE THE FORMAL INTEGRATION,
2 THAT SHE WAS GOING TO NEED TO TAKE OVER THE ASSET
3 MANAGEMENT OF THAT PORTFOLIO.

4 UNFORTUNATELY, JUST AROUND THE SAME TIME,
5 MISS SPEIGHT LOST SEVERAL PEOPLE, SEVERAL OF HER ASSET
6 MANAGERS THROUGH EITHER RESIGNATION OR TRANSFER, AS THE
7 COMPANY WAS GETTING REORGANIZED. AS A RESULT, SHE WAS
8 CONCERNED ABOUT HER ABILITY TO PICK UP THE ENTIRE SPG
9 LOAN PORTFOLIO, THOSE LOANS OUT IN DENVER.

10 MISS SPEIGHT WENT THROUGH THE SPG LOAN
11 PORTFOLIO AND SIGNED AS MUCH AS SHE COULD TO HER OWN
12 GROUP. THERE WERE A FEW -- WHAT WE CALL DISTRESS LOANS
13 THAT WERE NATURALLY ASSIGNED TO THE RES GROUP, BUT THERE
14 WERE A FEW LEFTOVER LOANS, WHICH SOMEBODY ALONG THE WAY
15 DENOMINATED THE ORPHAN LOANS. YOU ARE GOING TO HEAR A
16 LOT ABOUT SPG ORPHAN LOANS. SHE ASKED MR. LIPSON --
17 REMEMBER THE HEAD OF GLOBAL SERVICING -- IF SHE COULD
18 HIRE NEW PEOPLE TO COVER THESE ORPHAN LOANS AND OTHER
19 LOANS THAT WERE NOW NOT BEING COVERED BECAUSE OF HER
20 LOST SUBORDINATES.

21 MISS SPEIGHT WILL TESTIFY THAT MR. LIPSON
22 SUGGESTED INSTEAD THAT SHE CONTACT AN INDIVIDUAL NAMED
23 TONY LAUERMAN, WHO WORKED IN RES TO SEE IF HE COULD LEND
24 HER SOME PEOPLE BECAUSE HE THOUGHT THAT ALL OF
25 MR. LAUERMAN'S PEOPLE WERE NOT FULLY ENGAGED.

1 MISS SPEIGHT, IN FACT, WENT TO MR. LAUERMAN WHO AGREED
2 TO PROVIDE SOME PEOPLE TO HELP MANAGE THE ORPHAN LOANS,
3 SO MISS SPEIGHT AT LEAST THOUGHT SHE HAD THE ORPHAN
4 LOANS COVERED.

5 AS IF THINGS WERE NOT BAD ENOUGH, ANOTHER
6 KEY ASSET MANAGER, AN INDIVIDUAL NAMED GAGAN SURI, LEFT
7 MISS SPEIGHT'S GROUP. MR. SURI MANAGED A GROUP OF LOANS
8 KNOWN AS THE CANADIAN PORTFOLIO. AGAIN, MS. SPEIGHT
9 WENT TO MR. LAUERMAN, AND AGAIN HE ASSIGNED SOME
10 INDIVIDUALS TO HELP HER WITH THE ASSET MANAGEMENT
11 FUNCTION. THE TESTIMONY WILL BE, WE ANTICIPATE, THAT IF
12 YOU HAD THE ASSET MANAGEMENT FUNCTIONS, YOU WILL ALSO
13 RESPONSIBILITY FOR THE RISK RATINGS OF THOSE LOANS.
14 THAT WAS PART AND PARCEL OF WHAT THE ASSET MANAGEMENT
15 FUNCTION WAS.

16 ALTHOUGH THERE WAS STILL A LOT UP IN THE
17 AIR, THE TRANSITION CONTINUED TO MOVE FORWARD.
18 MS. SPEIGHT'S GROUP FORMALLY TRANSFERRED TO SERVICING AS
19 OF MAY 1ST, 2006. MISS SPEIGHT MET WITH MCCOOL AND
20 OTHERS TO TRY AND FIGURE OUT WHAT TASKS HAD TO BE
21 PERFORMED BY HER GROUP, AND WHICH BY PEOPLE IN REAL
22 ESTATE SOLUTIONS.

23 MISS SPEIGHT WAS TERMINATED ON MAY 26TH,
24 2006, 26 DAYS AFTER SHE FORMALLY STARTED REPORTING TO
25 MR. MCCOOL. UNTIL MAY 23RD, THREE DAYS BEFORE HER

1 TERMINATION, THERE IS NOT A HINT OF ANY PROBLEM
2 WHATSOEVER. THE COMPANY MAY CONTEND THAT MR. MCCOOL AND
3 MR. LIPSON HAD CONCERNS ABOUT MISS SPEIGHT'S
4 COMMUNICATION AND HER COMMITMENT AND HER ATTITUDE ABOUT
5 THE TRANSITION PRIOR TO THIS TIME.

6 IN FACT, I BELIEVE YOU WILL HEAR THAT
7 MR. LIPSON CLAIMS HE WAS CONCERNED FOR MANY WEEKS ABOUT
8 MISS SPEIGHT DURING THIS TIME PERIOD, BUT, IF SO, THERE
9 IS NO PAPER TRAIL. NOT A SINGLE DOCUMENT, NOT A SINGLE
10 E-MAIL, NOT A SINGLE PHONE CALL, INSTANT MESSAGE, MEMO,
11 FAX, DIARY ENTRY, YOU NAME IT, FROM ANYONE IN MANAGEMENT
12 AT THE COMPANY TO SUGGEST THAT THEY HAD ANY CONCERNS
13 ABOUT MISS SPEIGHT PRIOR TO MAY 23RD.

14 IN FACT, WHEN MISS SPEIGHT WAS FINALLY
15 FORMALLY TOLD WHAT HER POSITION WAS GOING TO BE IN MID
16 MAY, SHE WAS NOT ONLY GIVING HER OWN PORTFOLIO, BUT THE
17 ENTIRE NORTH AMERICAN PORTFOLIO, WITH MORE LOANS AND
18 MORE ASSETS AND MORE RESPONSIBILITY.

19 NOW THINGS START TO GO WRONG. MAY 23RD.
20 MISS SPEIGHT ATTENDS A MEETING WITH MR. MCCOOL AND TWO
21 OTHER INDIVIDUALS, ED FINKENSTAEDT AND CLARE DOOLEY,
22 FOUR PEOPLE IN THE MEETING. THE PRIMARY PURPOSE OF THE
23 MEETING WAS TO GO THROUGH ALL THE DIFFERENT TASKS
24 PERFORMED BY THE ASSET MANAGERS AND BY REAL ESTATE
25 SOLUTIONS, AMONG OTHERS, AND FIGURE OUT WHO SHOULD BE

1 PERFORMING THOSE TASKS IN THE LONG RUN.

2 THE EVIDENCE WILL SHOW THAT THE MEETING
3 WAS HIGHLY SUCCESSFUL IN THAT REGARD, BUT A SMALL PART
4 OF THE MEETING DID NOT GO WELL. MR. MCCOOL ASKED
5 MISS SPEIGHT ABOUT THE MORALE OF HER GROUP, AND
6 MISS SPEIGHT RESPONDED THAT HE WOULD HAVE TO ASK THE
7 INDIVIDUALS IN HER GROUP DIRECTLY. HE ASKED A SIMILAR
8 QUESTION ABOUT HER FORMER BOSS, MARLA BERGER, TO WHOM
9 SHE PROVIDED A SIMILAR RESPONSE. HE CLAIMS THAT
10 MISS SPEIGHT RESPONDED TO A QUESTION, TO WHICH HE
11 SOLICITED HER OPINION, BY SAYING THAT HER OPINION DIDN'T
12 MATTER.

13 MR. MCCOOL WALKED AWAY FROM THAT MEETING
14 WHERE HE FELT MISS SPEIGHT'S COMMITMENT WAS NOT AS
15 COMMITTED TO THE TRANSITION AS HE WANTED HER TO BE, AND
16 WROTE UP A MEMO TO DOCUMENT HIS ALLEGED CONCERNS. YOU
17 WILL SEE THAT MEMO. YOU WILL SEE THAT THERE IS NOTHING
18 IN THAT MEMO TO SUGGEST THAT MR. MCCOOL HAD ANY CONCERNS
19 ABOUT MISS SPEIGHT UNTIL THAT MAY 23RD MEETING.

20 AS A RESULT OF THAT MEETING, MISS SPEIGHT
21 WAS ASSIGNED CERTAIN FOLLOW-UP TASKS. THE EVIDENCE WILL
22 SHOW THAT SHE IMMEDIATELY PERFORMED THOSE ASSIGNMENTS.
23 NEVERTHELESS, MR. MCCOOL INSTANTLY CONCLUDED FROM
24 WALKING OUT OF THAT MEETING THAT MISS SPEIGHT WAS MERELY
25 GOING THROUGH THE MOTIONS TO SHOW A LEVEL OF

1 COOPERATION, WHICH HE CLAIMED DID NOT REALLY EXIST.

2 WE WILL DEMONSTRATE TO YOU THAT MR.

3 MCCOOL HAD NO REAL BASIS FOR REACHING THIS WHOLLY

4 SUBJECTIVE CONCLUSION. IN FACT, HE SHARED HIS MEMO WITH

5 HUMAN RESOURCES AND THEY SPECIFICALLY CAME BACK TO HIM

6 AND SAID, CAN YOU GIVE US SOME OBJECTIVE EVIDENCE TO

7 BACK THAT UP? THE EVIDENCE WILL SHOW THAT MR. MCCOOL

8 COULDN'T.

9 MR. MCCOOL WILL ADMIT THAT EVEN AFTER THE

10 MAY 23RD MEETING, HE DIDN'T THINK MISS SPEIGHT SHOULD BE

11 DISCIPLINED IN ANY WAY. HE JUST WANTED TO BE ABLE TO

12 SIT DOWN AND MEET WITH HER TO SEE IF HE COULD FIGURE OUT

13 WHY SHE WAS APPARENTLY UNHAPPY AND ASSURE HER THAT HE

14 VALUED HER AND WANTED HER INPUT AND WANTED TO WORK WITH

15 HER. BUT BEFORE HE HAD A CHANCE TO HAVE THAT MEETING, A

16 NEW PROBLEM AROSE.

17 REMEMBER I TALKED ABOUT THAT CANADIAN

18 LOAN PORTFOLIO THAT MR. SURI HAD. WELL, MISS SPEIGHT

19 THOUGHT IT WAS BEING COVERED BY MR. LAUERMAN'S PEOPLE.

20 REMEMBER SHE HAD THAT GONE TO MR. LAUERMAN AND ASKED IF

21 SHE COULD HAVE HELP AND HE SAID YES.

22 THROUGH A SERIES OF E-MAILS, IT APPEARED

23 THAT THE LOANS WERE BEING REASSIGNED, NOT TO ASSET

24 MANAGERS, BUT TO INDIVIDUALS IN CANADA KNOWN AS CRM,

25 CLIENT RELATION MANAGERS, AND THOSE PEOPLE ARE UNDER THE

1 JURISDICTION OF MR. FINKENSTAEDT, ONE OF THE PEOPLE WHO
2 HAD ATTENDED THE MEETING. IT IS NOT CLEAR WHO DECIDED
3 THAT THE LOANS SHOULD BE REASSIGNED, BUT MR. LAUERMAN
4 STATED THAT HIS GROUP WOULD NO LONGER HAVE
5 RESPONSIBILITY FOR THE LOANS. AN INDIVIDUAL IN MISS
6 SPEIGHT'S GROUP ASSUMED THAT SINCE THE LOANS WERE BEING
7 REASSIGNED, THE RISK RATINGS WERE BEING REASSIGNED TO
8 THE CRM'S TOO.

9 NOW, THE EVIDENCE WILL SHOW THAT THE
10 CRM'S HAD NOT BEEN TRAINED TO DO RISK RATINGS.
11 MR. FINKENSTAEDT DIDN'T THINK HIS PEOPLE SHOULD BE DOING
12 THEM. IN FACT, HE WILL TESTIFY THAT HE BAUKED AT THE
13 REASSIGNMENT. HE THOUGHT THIS CONTRADICTED THE
14 DECISIONS THAT HAD BEEN MADE AT THE MAY 23RD MEETING, SO
15 HE WROTE AN E-MAIL WHICH STARTED OUT "STOP" AND WENT ON
16 TO SAY THAT THE RISK RATINGS WERE THE RESPONSIBILITY OF
17 EITHER THE ASSET MANAGEMENT, MEANING WANDA'S GROUP, OR
18 REAL ESTATE SOLUTIONS, I.E., MICHAEL CARP'S GROUP AND
19 TONY LAUERMAN'S GROUP, WHICH IS, IN FACT, WHERE THOSE
20 LOANS HAD BEEN PLACED.

21 INDEED, WANDA HAD THOUGHT THAT UNTIL SHE
22 GOT THOSE E-MAILS THAT MR. LAUERMAN'S GROUP HAD BEEN
23 HANDLING THE LOANS, AND INDEED MR. LAUERMAN HIMSELF AT
24 THE BEGINNING OF THE E-MAIL STRING SAID, UNTIL TODAY WE
25 THOUGHT THAT WE WERE HANDLING THOSE LOANS. MR. MCCOOL,

1 ON THE OTHER HAND, THOUGHT THAT THEY HAD AGREED AT THE
2 MAY 23RD MEETING THAT ALL OF THE RISK RATINGS WERE GOING
3 TO BE DONE BY WANDA'S GROUP. THE RISK RATING PROCESS
4 WAS ONLY A FEW DAYS AWAY FROM BEGINNING. AS WE
5 MENTIONED, THIS IS NOT JUST A TASK THAT YOU CAN PICK UP.
6 THIS IS A VERY SERIOUS TASK.

7 MISS SPEIGHT WAS EXTREMELY CONCERNED THAT
8 THESE LOANS WOULD NOT BE ADEQUATELY COVERED. SHE
9 RECOGNIZED THAT THERE HAD BEEN A COMMUNICATIONS
10 BREAKDOWN. MR. LAUERMAN THOUGHT HE WAS HANDLING THE
11 LOANS UNTIL THE DAY BEFORE. MR. FINKENSTAEDT SAID BASED
12 ON THE MAY 23RD MEETING, HE DIDN'T THINK HE WAS SUPPOSED
13 TO GET THE LOANS, AND EVERYONE APPEARED CONFUSED, SO SHE
14 DECIDES TO WRITE AN E-MAIL.

15 THIS IS THE E-MAIL SHE WROTE. SHE WROTE
16 IT TO MR. MCCOOL, HER NEW BOSS; MR. FINKENSTAEDT, WHO
17 HAD BEEN AT THE MEETING WITH HER, WHO NOW, IT APPEARED,
18 WAS GETTING THE RISK RATING FOR THE LOANS; MR. LAUERMAN,
19 WHO WAS IN THE REAL ESTATE SOLUTIONS, WHO UP UNTIL THE
20 DAY OR TWO BEFORE HAD HAD THE LOANS; MICHAEL CARP, WHO
21 IS MR. LAUERMAN'S BOSS, CLARE DOOLEY, WHO WAS THE OTHER
22 PARTICIPANT. SHE ALSO CC'D THREE PEOPLE; THE CREDIT
23 DEPARTMENT, THE PEOPLE TO WHOM SHE WOULD HAVE TO REPORT
24 THE LOANS, THE RISK RATINGS, TO. MR. HOHENLEITNER WAS
25 THE ULTIMATE HEAD OF THE CREDIT DEPARTMENT TO WHOM SHE

1 WOULD REPORT THE RISK RATINGS TO, AND THEN TWO OF HIS
2 SUBORDINATES. THIS E-MAIL GOT HER FIRED.

3 MR. LIPSON WILL TESTIFY THAT IF
4 MISS SPEIGHT HAD NOT SENT THIS E-MAIL, SHE WOULD NOT
5 HAVE BEEN FIRED, AND HE WILL SAY THAT UNEQUIVOCALLY.
6 THEY ARE GOING TO CONTEND THAT THIS E-MAIL WAS
7 INCREDIBLY INSUBORDINATE, INAPPROPRIATE, AND THAT WANDA
8 KNEW BETTER THAN TO SEND AN E-MAIL LIKE THIS, AND THAT
9 ANYBODY WHO SENT THIS E-MAIL WOULD HAVE GOTTEN FIRED.

10 AT THE END OF THE DAY, WE ARE GOING TO
11 PROVE TO YOU THAT IF A WHITE PERSON HAD WRITTEN THAT
12 E-MAIL, ESPECIALLY ONE WITH MISS SPEIGHT'S WORK HISTORY
13 AT THE COMPANY, THEY WOULD NEVER HAVE GOTTEN FIRED. WE
14 WILL SHOW YOU THAT SIMILARLY SITUATED WHITE EMPLOYEES,
15 EXCEPT IN THE MOST OFFENSIVE OR EGREGIOUS CIRCUMSTANCES,
16 WOULD, CONSISTENT WITH THE COMPANY'S POLICIES, HAVE AT
17 LEAST GOTTEN A COUNSELING OR A WARNING. THEY WILL ADMIT
18 TO YOU THAT MISS SPEIGHT NEVER EVEN GOT A WARNING.

19 WE WILL ASK YOU TO CONCLUDE THAT IF
20 MISS SPEIGHT WERE NOT AFRICAN-AMERICAN BUT WHITE, SHE
21 WOULD NOT HAVE BEEN FIRED. WE WILL SHOW YOU THAT THE
22 COMPANY'S REASONS FOR CLAIMING THAT HER SKIN COLOR HAD
23 NOTHING TO DO WITH THE TERMINATION SIMPLY ARE NOT
24 CREDIBLE. FOR EXAMPLE, ALTHOUGH WE EXPECT THAT THE
25 COMPANY WILL NOW CONTEND THAT MISS SPEIGHT'S BEHAVIOR

1 WAS EGREGIOUS AND CONSTITUTED INSUBORDINATION, THEIR OWN
2 STATEMENTS MADE PRIOR TO THEIR LEARNING OF
3 MISS SPEIGHT'S LAWSUIT AND DOCUMENTED IN THEIR OWN
4 FILES, SAY SOMETHING VERY DIFFERENT. IN FACT, IN THE
5 MEETING IN WHICH THEY TERMINATED HER, THEY SPECIFICALLY
6 TOLD HER THEY DIDN'T THINK SHE HAD DONE ANYTHING
7 EGREGIOUS. IT WAS JUST THAT MR. MCCOOL HAD CONCLUDED
8 THAT HE DIDN'T THINK IT WAS GOING TO WORK OUT BETWEEN
9 THE TWO OF THEM.

10 WE WILL SHOW YOU THAT THEIR STATED
11 REASONS FOR WHY TERMINATION WAS APPROPRIATE HAVE CHANGED
12 OVER TIME, SO THEREFORE YOU SHOULD NOT BELIEVE THEM,
13 PARTICULARLY AS TO MR. LIPSON'S EXPLANATIONS FOR HER
14 TERMINATION, AND WE WILL SHOW YOU THAT, AS THEY DIDN'T
15 HOLDUP TO SCRUTINY, THEY CHANGED THEIR TUNE.

16 WE WILL ASK YOU AT THE END OF THE DAY TO
17 CONCLUDE THAT THE ONLY REASON THAT THEY NEED TO LIE IS
18 BECAUSE THE TRUTH ESTABLISHES, BY THE PREPONDERANCE OF
19 THE EVIDENCE, THAT HAD MISS SPEIGHT NOT BEEN PREJUDGED,
20 AT LEAST IN PART, BY THE COLOR OF HER SKIN, BY MANAGERS
21 TO WHOM SHE HAD ONLY BEEN REPORTING FOR SEVERAL WEEKS AT
22 MOST, THAT SHE WOULD NOT HAVE BEEN TERMINATED. THANK
23 YOU IN ADVANCE FOR YOUR TIME AND ATTENTION, AND GOOD
24 AFTERNOON.

25 THE COURT: COUNSEL, YOU WANT TO OPEN

1 NOW?

2 MR. BANKS: I WOULD LIKE TO.

3 THE COURT: I WAS --

4 MR. BANKS: I BEG YOUR PARDON?

5 THE COURT: DO YOU WANT TO TAKE DOWN YOUR
6 MEMO --

7 MR. BANKS: I WILL PROBABLY PUT IT BACK
8 UP AT SOME POINT, BUT -- IF I MAY.

9 THE COURT: SURE.

10 MR. BANKS: I'LL SLIDE THIS OVER HERE.

11 GOOD AFTERNOON, MEMBERS OF THE JURY. I'M MICHAEL BANKS,
12 AND I REPRESENT CAPMARK. I WANT TO START BY TELLING YOU
13 THAT ACCUSATION OF RACE DISCRIMINATION IS A VERY SERIOUS
14 MATTER AND ONE THAT YOU SHOULD TAKE SERIOUSLY. CAPMARK
15 CERTAINLY DOES. WE HOPE THAT YOU WILL JUDGE IT BY THE
16 FACTS, AND WE ARE GOING TO SHOW YOU THOSE FACTS.

17 YOU KNOW, IT'S AN ACCUSATION IN THIS CASE
18 THAT IS MADE AGAINST A COMPANY, CAPMARK. BUT AS I SAID
19 WHEN WE WERE GOING THROUGH THE PROCESS BEFORE LUNCH, A
20 COMPANY LIKE CAPMARK ACTS THROUGH ITS PEOPLE. IT'S
21 REALLY A COMPANY OF PEOPLE, AND THERE ARE TWO PEOPLE
22 HERE WHO ARE ACCUSED OF RACE DISCRIMINATION, TWO
23 DECISION-MAKERS, THE TWO PEOPLE WHO PARTICIPATED IN THE
24 DECISION TO TERMINATE MISS SPEIGHT'S EMPLOYMENT. THOSE
25 TWO PEOPLE ARE LINDA PICKLES -- YOU PROBABLY CAN'T SEE

1 HER BEHIND MY EASEL RIGHT NOW, AND MIKE LIPSON.

2 MR. LIPSON WILL BE IN HERE TO TESTIFY, AND YOU WILL HAVE
3 AN OPPORTUNITY TO HEAR WHAT MR. LIPSON HAS TO SAY.

4 THEY WILL SHOW YOU THAT THIS SERIOUS
5 ACCUSATION IS COMPLETELY AND TOTALLY UNTRUE. THEY WILL
6 SHOW YOU THAT MISS SPEIGHT WAS TERMINATED NOT BECAUSE OF
7 THE COLOR OF HER SKIN -- THAT HAD NOTHING TO DO WITH IT,
8 BUT BECAUSE OF WHAT SHE DID IN THE WORKPLACE AND WHAT
9 SHE SAID. YOU WILL HEAR FROM THEM.

10 YOU WILL HEAR FROM CO-WORKERS OF
11 MISS SPEIGHT. YOU WILL HEAR FROM MARK MCCOOL, ANOTHER
12 MANAGER WHO SUPERVISED MISS SPEIGHT, AND MOST OF ALL,
13 MOST TELLING, YOU ARE GOING TO HEAR FROM MISS SPEIGHT,
14 NOT JUST ON THE WITNESS STAND, BUT YOU WILL SEE WHAT SHE
15 WROTE IN THAT E-MAIL AND OTHERS. YOU WILL SEE AND HEAR
16 THE WORDS THAT SHE USED, BECAUSE IT'S HER WORDS AND HER
17 CONDUCT THAT ARE REALLY AT ISSUE HERE. AND WHEN YOU PUT
18 IT ALTOGETHER, IT'S GOING TO BE VERY, VERY CLEAR TO YOU
19 THAT MISS SPEIGHT'S RACE HAD NOTHING TO DO WITH HER
20 TERMINATION.

21 LET ME GO THROUGH A LITTLE BIT OF
22 BACKGROUND HERE SO YOU UNDERSTAND IT. MR. SALMANSON DID
23 A NICE JOB OF TELLING YOU ABOUT MISS SPEIGHT'S HISTORY,
24 AND HE IS RIGHT: FOR EIGHT YEARS, SHE WAS A VERY GOOD
25 EMPLOYEE. HER COMPENSATION DID MOVE UP TO THE POINT

1 WHERE WHEN SHE WAS TERMINATED IN HER LAST FULL YEAR OF
2 EMPLOYMENT WITH BONUSES INVOLVED, SHE EARNED MORE THAN
3 HALF A MILLION DOLLARS. SHE HAD BEEN PROMOTED TO A
4 POINT WHERE SHE WAS MANAGING A TEAM OF 20 EMPLOYEES,
5 OVERSEEING SEVERAL BILLION DOLLARS WORTH OF LOANS THAT
6 HAD BEEN MADE BY CAPMARK THAT HAD TO BE MANAGED.

7 IN THOSE EIGHT YEARS, THROUGH ALL OF HER
8 PROMOTIONS, AND ALL HER PAY INCREASES, HER RACE WAS
9 NEVER A FACTOR, JUST AS IT WASN'T A FACTOR AT THE END.
10 ALL ALONG SHE WAS JUDGED BASED ON HER PERFORMANCE.
11 UNFORTUNATELY, IN THE SPRING OF 2006, THINGS CHANGED.
12 THERE WAS A SIGNIFICANT CHANGE WITHIN THE COMPANY.
13 MR. SALMANSON TOLD YOU, AND I THINK I TOLD YOU THIS
14 MORNING, THE COMPANY USED TO BE PART OF GM. IT WAS
15 KNOWN AS GMAC COMMERCIAL MORTGAGE. IT WAS SOLD. GM
16 SOLD THE BUSINESS, AND IT BECAME CAPMARK WITH NEW
17 OWNERS.

18 WHEN THE NEW OWNERS CAME IN, THEY DECIDED
19 TO MAKE THINGS A LITTLE MORE EFFICIENT TO CHANGE SOME OF
20 THE WAY THAT THINGS OPERATED. LET ME JUST -- I KNOW YOU
21 ARE GOING TO HEAR A LOT OF NAMES, AND GET A LOT OF
22 INFORMATION PUT IN FRONT OF YOU, MISS SPEIGHT USED TO
23 WORK IN WHAT WAS CALLED PLG, PROPRIETARY LENDING. THAT
24 WAS A GROUP THAT MANAGED AND MADE CAPMARK LOANS, LOANS
25 TO PEOPLE BORROWING DIRECTLY, NOT PEOPLE, BIG

1 BUSINESSES, THESE BIG COMMERCIAL LOANS.

2 IN THE SPRING OF 2006, MISS SPEIGHT'S
3 ENTIRE GROUP MOVED INTO THE SERVICING DEPARTMENT. THE
4 SERVICING DEPARTMENT ALSO MANAGED LOANS, DIFFERENT KINDS
5 OF LOANS, AND THE DECISION WAS LET'S TAKE THESE TWO
6 GROUPS THAT ARE MANAGING LOANS, AND LET'S COMBINE THEM
7 SO WE CAN BE MORE EFFICIENT.

8 HERE IS WHAT YOU ARE GOING TO HEAR THAT
9 IS IMPORTANT ABOUT THIS: HEAD OF SERVICING WAS A GUY
10 NAME MIKE LIPSON. I TOLD YOU, YOU WILL HEAR FROM MIKE
11 LIPSON. MIKE LIPSON SUPERVISED MARK MCCOOL AND WANDA
12 SPEIGHT AND HER TEAM WERE BROUGHT INTO THAT GROUP. ALL
13 20 PEOPLE IN MISS SPEIGHT'S GROUP WERE BROUGHT INTO
14 SERVICING. WHY?

15 WHY DID MR. LIPSON BRING MISS SPEIGHT AND
16 HER GROUP? BECAUSE HE THOUGHT HE WAS GETTING A TOP
17 FLIGHT MANAGER. YES, AN EXPENSIVE ONE, BUT A CAPABLE,
18 EXPERIENCED, DEDICATED, COMMITTED MANAGER. THAT IS WHAT
19 HE WANTED IN BRINGING THESE ORGANIZATIONS TOGETHER, AND
20 THAT IS WHY HE AFFIRMATIVELY DECIDED TO BRING
21 MISS SPEIGHT IN.

22 AS YOU WILL HEAR, HE KNEW MISS SPEIGHT'S
23 RACE. THAT WAS IRRELEVANT TO HIM. IT HAD BEEN
24 IRRELEVANT TO EVERYONE FOR EIGHT YEARS AT CAPMARK, AND
25 IT WAS IRRELEVANT TOTALLY TO MR. LIPSON. HE BROUGHT HER

1 INTO THAT GROUP BECAUSE HE WANTED HER THERE. HE WANTED
2 MISS SPEIGHT TO HELP HIM MAKE THE SERVICING DEPARTMENT
3 SUCCEED.

4 NOW, MR. LIPSON THOUGHT THIS WAS A GREAT
5 IDEA. THERE WAS ONE PERSON WHO DIDN'T LIKE IT AT ALL,
6 THOUGH, AND THAT IS MISS SPEIGHT. IT'S AN OPINION YOU
7 WILL HEAR FROM HER IN HER TESTIMONY, AND YOU WILL SEE IT
8 IN HER OWN E-MAILS. SHE MOVED INTO THE OTHER GROUP,
9 INTO SERVICING, ON MAY 1ST OF 2006.

10 BEFORE SHE EVEN GOT THERE, SHE STARTED
11 COMPLAINING ABOUT IT. MISS SPEIGHT WROTE THAT SHE WAS
12 INDIFFERENT -- THAT IS A WORD SHE USES -- INDIFFERENT TO
13 THE COMPANY. SHE DIDN'T LIKE THE NEW MANAGEMENT. SHE
14 DIDN'T LIKE LIPSON. SHE DIDN'T WANT TO WORK FOR MCCOOL.
15 SHE DIDN'T HAVE A HIGH OPINION OF THEM. SHE DIDN'T HAVE
16 A HIGH OPINION OF THEIR BOSSES EITHER, AND THAT IS WHAT
17 SHE WROTE. SHE WROTE THAT PUBLICLY SHE WOULD PRETEND TO
18 BE ON BOARD, BUT IN REALITY SHE WOULDN'T. IN REALITY,
19 AS SHE SAID, SHE WAS INDIFFERENT.

20 SHE WAS UPSET FOR A COUPLE OF REASONS;
21 ONE, SERVICING WAS A LITTLE LESS PRESTIGIOUS. PLG WAS
22 LIKE THE BLUE CHIP PART OF THE ORGANIZATION. THAT'S
23 WHAT MADE MONEY FOR THE COMPANY. THEY MADE THE BIG
24 COMPANY LOANS, AND SERVICING WAS A LITTLE MORE LIKE IT
25 SOUNDED. THEY DIDN'T CUT HER PAY OR ANYTHING LIKE THAT.

1 THEY DIDN'T CHANGE HER TITLE. BUT SHE WAS WORRIED, AND
2 SHE SAID SOMETHING ELSE, BOTH IN HER E-MAILS, IN HER
3 TESTIMONY THAT YOU WILL HEAR HERE. MISS SPEIGHT
4 CONCLUDED THAT THE COMPENSATION STRUCTURE IN SERVICING
5 WAS NOT AS GENEROUS AS IT WAS IN PLG. SHE WROTE AND HAS
6 TESTIFIED THAT SHE WAS CONCERNED SHE WAS GOING TO MAKE
7 LESS MONEY. THAT BOTHERED HER. I UNDERSTAND THAT.
8 THAT'S OKAY. IT WAS ABOUT THE MONEY. UNFORTUNATELY,
9 HER UNHAPPINESS SHOWED BIG TIME.

10 ON MAY 23RD, 2006, MR. MCCOOL HAD A
11 MEETING WITH MISS SPEIGHT AND TWO OTHERS. MR. SALMANSON
12 REFERRED TO IT TOO. IT WAS A MEETING OF FOUR PEOPLE
13 THAT LASTED A COUPLE OF HOURS, AND THEY HAD A DETAILED
14 SIX-PAGE LIST OF TASKS, BECAUSE AS YOU ARE COMBINING
15 THESE ORGANIZATIONS YOU HAVE TO DECIDE WHO IS DOING
16 WHAT. RIGHT? SO THEY ARE DIVIDING UP THE TASKS IN THIS
17 MEETING. THIS WAS REALLY THE FIRST OPPORTUNITY TO DO
18 THIS AFTER THE TRANSITION.

19 IN FRONT OF THE OTHER THREE PEOPLE, MR.
20 MCCOOL ASKED MISS SPEIGHT SOME QUESTIONS. ONE OF THE
21 QUESTIONS HE ASKED WAS A SIMPLE ONE: TELL ME ABOUT THE
22 MORALE OF YOUR GROUP. HOW DO PEOPLE FEEL ABOUT THIS
23 MOVE? ARE PEOPLE UNHAPPY? ARE THE 20 MEMBERS OF YOUR
24 TEAM OVERSEEING ALL THESE LOANS CONCERNED OR DISMAYED?
25 MISS SPEIGHT SAID NOT ONCE, NOT TWICE, BUT THREE TIMES,

1 I DON'T KNOW, YOU WILL HAVE TO ASK THEM.

2 WELL, ALTHOUGH SHE HAD ALREADY COMMENTED
3 IN E-MAILS ABOUT KNOWING THAT THE PEOPLE IN HER GROUP
4 WERE NOT UNHAPPY, NOT TO MCCOOL, BUT TO OTHERS, SHE JUST
5 SAID TO MR. MCCOOL, I DON'T KNOW. I'M NOT GOING TO TALK
6 TO YOU ABOUT MY GROUP. GO ASK THEM YOURSELF.

7 HE WAS BOTHERED BY THAT. BUT IT WAS THE
8 NEXT QUESTION HE ASKED HER TOWARDS THE END OF THE
9 MEETING THAT REALLY GOT HIM. YOU SEE MCCOOL, AS HE WILL
10 TELL YOU, HAD BROUGHT WANDA SPEIGHT INTO THE DEPARTMENT,
11 ALONG WITH LIPSON, AS A 5 TO \$600,000 A YEAR MANAGER TO
12 CONTRIBUTE IDEAS, TO MAKE THINGS HAPPEN. THEY BROUGHT
13 HER IN BECAUSE THEY WANTED HER TO MAKE IT WORK, AND THEY
14 THOUGHT SHE COULD DO IT.

15 SO HE ASKED HER, TELL ME WANDA, WHAT ARE
16 YOUR THOUGHTS? WHAT ARE YOUR VIEWS? WHAT ARE YOUR
17 OPINIONS ON HOW TO MAKE THIS WORK?

18 SHE SAT THERE. SHE CROSSED HER ARMS.
19 SHE SAID, MY OPINIONS DON'T COUNT, SO I DON'T HAVE ANY.

20 MCCOOL JUST ABOUT BLUE A GASKET AFTER THE
21 MEETING. HE WAS ANNOYED. BUT, STILL, THEY HAD MADE THE
22 INVESTMENT IN MISS SPEIGHT, AND THEY KNEW THAT SHE WAS
23 CAPABLE IF ONLY THEY COULD BRING HER ON BOARD. SO AS
24 MR. MCCOOL WILL TELL YOU, AND ALL THE EVIDENCE WILL
25 SHOW, THERE WAS NO PLAN TO TERMINATE HER. THERE WAS NO

1 PLAN TO DISCIPLINE HER. HE DID THE RIGHT THING.

2 HE WENT TO THE HUMAN RESOURCES

3 ORGANIZATION, AND HE SAID, COME HELP ME. HELP ME COME

4 TALK TO MISS SPEIGHT SO SHE CAN BE A VALUABLE MEMBER OF

5 OUR TEAM SO SHE CAN HELP LEAD HER GROUP IN BRINGING

6 THESE DEPARTMENTS TOGETHER AND EARN WHAT WE ARE PAYING

7 HER.

8 THERE IS NO DISPUTE ABOUT THAT. HE TRIED

9 TO MAKE IT BETTER, NOT FIRE HER. THIS WAS MAY 23RD ON

10 THIS MEETING, AND THEY SCHEDULED A MEETING FOR MAY 26TH.

11 MCCOOL, A GUY NAMED JON FOGLE FROM HUMAN RESOURCES WHO

12 REPORTED TO LINDA PICKLES, THEY WERE GOING TO MEET WITH

13 MISS SPEIGHT ON THE AFTERNOON OF THE 26TH. AND THEN

14 CAME THE STRAW THAT BROKE THE CAMEL'S BACK.

15 I'M GOING TO GET YOU HERE THE LARGEST

16 BLOWUP OF THE E-MAIL IN THE WESTERN CIVILIZATION, AS FAR

17 AS I KNOW. I WOULD ASK IF EVERYBODY CAN SEE THAT, BUT

18 IT'S SORT OF A DUMB QUESTION, GIVEN THE SIZE OF IT.

19 THIS IS WHAT HE WROTE. THIS IS WHAT

20 MISS SPEIGHT WROTE. FIRST, YOU HAVE TO UNDERSTAND

21 WHAT'S GOING ON HERE. AS MR. SALMANSON TOLD YOU, THEY

22 HAD SOMETHING CALLED RISK RATING. NOW, WHEN YOU ARE

23 LOANING MILLIONS OF DOLLARS TO SHOPPING CENTER

24 DEVELOPERS AND HOTEL BUILDERS AND THINGS LIKE THAT, YOU

25 NEED TO KEEP TRACK OF THE LOANS. YOU DON'T WANT TO FIND

1 OUT FOR THE FIRST TIME THAT A LOAN IS NOT BEING REPAID.
2 SO FOUR TIMES A YEAR, ONCE A QUARTER, THEY TAKE PEOPLE
3 FROM MISS SPEIGHT'S GROUP, AND THEY DO WHAT IS CALLED A
4 RISK RATING. THEY ANALYZE THE LOAN, THEY LOOK AT THE
5 FINANCIAL STATEMENTS, AND THEY DECIDE A RISK OF 1 TO 11.
6 THAT INDICATED, BASED ON ALL THAT THEY REVIEWED, WHETHER
7 THERE WAS A RISK OF THE LOAN NOT BEING REPAID, BECAUSE
8 IF THERE WAS A RISK, THERE WAS A PROBLEM, YOU HAD TO
9 DEAL WITH IT IN ADVANCE.

10 THERE WAS SOME QUESTION, AS MR. SALMANSON
11 TOLD YOU, ABOUT WHO WAS GOING TO DO THE RISK RATINGS FOR
12 THESE CANADIAN LOANS. THEY CALLED IT CANADIAN PLG
13 LOANS, LOANS THAT CAPMARK HAD MADE TO BUSINESSES IN
14 CANADA. THIS IS ACTUALLY A LENGTHY E-MAIL TRAIL
15 PROCEEDING THIS. IT'S ABOUT FOUR PAGES LONG. THERE
16 WERE MAYBE 8 OR 10 E-MAILS AND THERE IS SOME DISCUSSION,
17 WHO'S GOING TO DO THE RISK RATINGS. IT WAS NOT GOING TO
18 BE LAUERMAN'S GROUP. CONTRARY TO WHAT MR. SALMANSON
19 TOLD YOU, LAUERMAN SAID ON MAY 22ND, THIS IS NOT FOR US.
20 IT WAS NOT GOING TO BE MR. FINKENSTAEDT'S GROUP, AND
21 THEY WENT BACK AND FORTH.

22 MR. MCCOOL, MISS SPEIGHT'S BOSS, WROTE A
23 VERY MEASURED, CALM E-MAIL, CONSTRUCTIVE. HE SAID, "ALL
24 RISK RATINGS WILL BE DONE BY THE ASSET MANAGEMENT GROUP.
25 NED, WANDA, CLARE, AND I ARE IN THE PROCESS OF

1 IDENTIFYING THE SPECIFIC FUNCTIONALITIES TO BE ASSIGNED
2 TO THE VARIOUS GROUPS." SKIP AROUND A LITTLE AS YOU GO
3 THROUGH IT. "WHILE WE HAVE NOT COMPLETED THAT
4 ASSESSMENT, I THOUGHT WE WERE ALL ON THE SAME PAGE, THAT
5 THE ASSET MANAGEMENT TEAM" -- THAT WAS WANDA'S TEAM,
6 ASSET MANAGEMENT TEAM -- "IS AND WILL CONTINUE TO BE
7 RESPONSIBLE FOR DAILY BORROWER INTERACTION, AS WELL AS
8 THE RISK RATING PROCESS."

9 SO ALL HE WAS SAYING, IN A CALM, MEASURED
10 WAY, DESPITE WHAT HAD HAPPENED A FEW DAYS EARLIER, IS
11 WANDA SPEIGHT'S GROUP, THE ASSET MANAGEMENT TEAM, HAS
12 DONE THESE RISK RATINGS FOR THESE LOANS BEFORE, AND THEY
13 WILL CONTINUE TO DO THOSE RISK RATINGS.

14 THIS IS WHERE THE SCREW FALLS OUT. MAY
15 25TH, 2006, HALF AN HOUR, MAYBE A LITTLE MORE,
16 35 MINUTES AFTER MCCOOL'S MEMO, SPEIGHT FIRES BACK
17 QUICKLY AN E-MAIL. IT'S TO MCCOOL, FINKENSTAEDT,
18 LAUERMAN, CARP, AND DOOLEY. THEY'RE THE SAME PEOPLE WHO
19 WERE ON THIS OTHER E-MAIL. THEY ARE CONTEMPORARIES AND
20 SOME PEOPLE IN HER GROUP.

21 THERE IS A CC THAT I WILL COME BACK TO.
22 ACTUALLY, I WILL TELL YOU NOW. THESE WERE THE CLIENTS.
23 MISS SPEIGHT TRIED DELIBERATELY TO EMBARRASS AND
24 HUMILIATE MR. MCCOOL. SHE ACTUALLY ADDED THE CLIENTS TO
25 THIS E-MAIL, EVEN THOUGH THEY WERE NOT ON THE PRIOR

1 E-MAIL TRAIL.

2 HERE IS WHAT SHE WROTE TO MARK MCCOOL.

3 "SORRY FOR THE COMMUNICATIONS BREAKDOWN. LET ME TRY
4 AGAIN."

5 SHE BEGAN BY DRESSING DOWN MR. MCCOOL IN
6 FRONT OF SEVEN OTHER PEOPLE, INCLUDING THE CLIENTS --
7 EIGHT OTHER PEOPLE, INCLUDING THE CLIENTS. SARCASTIC.
8 SHE BEGINS BY SAYING THE CANADIAN LOANS AND THE SPG
9 LOANS ARE NOT BEING MANAGED BY ANYONE ON THE GROUP, AND
10 SHE CONTINUES, "CONSEQUENTLY, HER TEAM, THE FORMER PLG
11 ASSET MANAGEMENT INDIVIDUALS, ARE NOT IN A POSITION TO
12 PERFORM AN EVALUATION FOR RISK RATING PURPOSES."

13 SEE WHAT IS HAPPENING? YOU WILL. MCCOOL
14 HAD SAID WANDA'S TEAM IS GOING TO DO IT. MISS SPEIGHT
15 RESPONDED TO EVERYONE, INCLUDING TO THE CLIENTS, NO, I'M
16 NOT. SHE GOES ON. "I WOULD HOPE I'M NOT BEING TOLD BY
17 CAPMARK MANAGEMENT TO SIGN OFF ON RESERVES AND PROVIDE
18 RISK RATINGS ON A PORTFOLIO OF LOANS, FOR WHICH MY STAFF
19 HAS NO KNOWLEDGE."

20 NOW SHE IS SUGGESTING TO THE CLIENTS AS
21 WELL THAT MCCOOL WAS TELLING HER TO DO SOMETHING
22 IMPROPER. IT'S THIS LAST PARAGRAPH THAT PUSHED LIPSON
23 OVER THE TOP.

24 SHE BEGINS WITH "JOE." JOE IS JOE
25 HOHENLEITNER. YOU WILL HEAR FROM HIM. HE IS THE HEAD

1 OF THE CREDIT DEPARTMENT. HE WAS THE LEAD OF THE
2 CLIENTS. "JOE, PLEASE BE AWARE IF WE ARE BEING TOLD TO
3 RISK RATE THE LOANS, I CANNOT BE CONFIDENT IN THE
4 ACCURACY OF ASSIGNED RATINGS, NOR CAN WE BE EXPECTED TO
5 DEFEND SUCH RATINGS GIVEN OUR LACK OF KNOWLEDGE AND
6 EXPERIENCE WITH THIS PORTFOLIO," THE PORTFOLIO THAT HER
7 GROUP HAD BEEN MANAGING FOR A LONG TIME.

8 WHAT SHE WAS SAYING HERE, IF YOU MAKE ME
9 DO WHAT MCCOOL IS SAYING, YOU ARE GOING TO GET JUNK;
10 THESE RISK RATINGS THAT ARE SO IMPORTANT WILL BE
11 WORTHLESS. MCCOOL WAS MEASURED AGAIN. I SHOULD HAVE
12 SHOWN YOU THE VERY TOP OF THE E-MAIL. HIS INITIAL
13 RESPONSE -- YOU WILL SEE IT WAS, WELL, "WANDA, WE NEED
14 TO MEET. LET'S GET TOGETHER AND TALK ABOUT THIS."

15 THAT IS WHEN HE SAW IT FIRST THING THE
16 NEXT MORNING. BUT WHAT HE DID IMMEDIATELY UPON PRINTING
17 IT, AFTER HE SENT THAT E-MAIL, HE WENT IN TO SEE HIS
18 BOSS, LIPSON, BECAUSE HE WAS CONCERNED. THIS IS MIKE
19 LIPSON, THE GUY WHO BROUGHT WANDA SPEIGHT INTO HIS
20 GROUP, WHO FOUND THE TEAM, BROUGHT THEM IN, AND AGREED
21 TO TAKE ON HER VERY SUBSTANTIAL COMPENSATION IN PART OF
22 HIS BUDGET.

23 LIPSON, WHO WILL TESTIFY, LOOKED AT THAT
24 E-MAIL AND SAID, IT'S NOT GOING TO WORK, SHE HAS TO GO.
25 HE DID NOT NEED A \$500,000 A YEAR PERSON WHO WOULD NOT

1 ANSWER QUESTIONS, WHO UNDERMINED THE WORK OF THE GROUP,
2 WHO WAS DELIBERATELY OVERTLY INSUBORDINATE.

3 MR. LIPSON CALLED MISS PICKLES, THE HEAD
4 OF HUMAN RESOURCES, THE PERSON WHO HAS BEEN DOING THIS
5 AT CAPMARK FOR 12 YEARS, AND IT WAS THE HIGHEST LEVEL IN
6 THE PERSON RESPONSIBLE FOR EMPLOYMENT ISSUES. HE READ
7 HER THE E-MAIL, AND SHE AGREED. SHE WILL TELL YOU THAT.
8 THERE WAS NO QUESTION IN HER MIND THAT MISS SPEIGHT
9 CROSSED THE LINE.

10 LATER THAT DAY THERE WAS A MEETING,
11 MCCOOL AND ANOTHER PERSON FROM HUMAN RESOURCES SAT DOWN
12 WITH MISS SPEIGHT AND TOLD HER. THEY TOLD HER THAT THEY
13 COULD NOT CONTINUE TO EMPLOY HER, THAT THEY NEEDED
14 SOMEONE WITH LEADERSHIP SKILLS WHO WAS ON BOARD WITH THE
15 TEAM. AND HER EMPLOYMENT ENDED THAT DAY.

16 YES, AS MR. SALMANSON TOLD YOU, WAS IT A
17 SINGLE E-MAIL THAT CAUSED THIS? WELL, THE E-MAIL WAS
18 THE TRIGGER, BUT THE CONDUCT WAS APPARENT ON MAY 23RD,
19 WHEN SHE REFUSED TO ANSWER MR. MCCOOL'S QUESTION, WAS
20 INSUBORDINATE TO HIM IN FRONT OF THE OTHERS IN THE
21 MEETING. YOU WILL SEE IT IN THE COURSE OF THIS TRIAL IN
22 OTHER E-MAILS THAT MISS SPEIGHT WROTE.

23 YOU WILL SEE THAT I AM CONFIDENT THAT
24 RACE WAS UTTERLY IRRELEVANT. IT WAS IRRELEVANT TO HER
25 PROMOTIONS; IT WAS IRRELEVANT TO HER VERY SIZABLE PAY;

1 IT WAS IRRELEVANT TO MR. LIPSON WHEN HE DECIDED TO BRING
2 WANDA SPEIGHT INTO HIS GROUP; IT WAS IRRELEVANT TO MARK
3 MCCOOL WHEN HE WENT TO HUMAN RESOURCES AFTER THE
4 MAY 23RD MEETING, TO TRY TO HELP MISS SPEIGHT RATHER
5 THAN DISCIPLINE HER. IT WAS IRRELEVANT ON MAY 26TH WHEN
6 MISS SPEIGHT'S EMPLOYMENT WAS TERMINATED. NEVER HAD
7 ANYTHING TO DO WITH ANYTHING.

8 IT MAY TAKE A FEW DAYS FOR ALL THIS
9 EVIDENCE TO COME OUT. AS I SAID IN THE BEGINNING,
10 MISS SPEIGHT GETS TO GO FIRST. THAT IS OKAY. I HOPE
11 YOU WILL LISTEN AND HEAR IT ALL. I HOPE YOU WILL WAIT
12 UNTIL YOU HEAR FROM MIKE LIPSON AND MARK MCCOOL. I HOPE
13 YOU WILL WAIT UNTIL YOU SEE ALL OF THE E-MAILS THAT I'M
14 TELLING YOU ABOUT. I HOPE YOU WILL WAIT UNTIL MISS
15 PICKLES TESTIFIES.

16 THEN, IN THE END, THE JUDGE WILL GIVE YOU
17 AN INSTRUCTION, AND I WILL ASK YOU TO RENDER A VERDICT
18 IN FAVOR OF CAPMARK. I WILL ASK YOU TO LOOK AT THE
19 FACTS, NOT THE ACCUSATIONS, BECAUSE THOSE SERIOUS
20 ACCUSATIONS WILL BE BEHIND US. I'M CONFIDENT YOU WILL
21 SEE THAT THEY WILL GIVE WAY TO THE FACTS.

22 AS THE JUDGE TOLD YOU, AS JUDGE JOYNER
23 TOLD YOU, DURING THE COURSE OF THIS TRIAL, WE CAN'T TALK
24 TO YOU EXCEPT IN THE COURTROOM. THERE MAY BE TIMES I
25 SEE YOU WALKING OUT OF A REST ROOM OR GETTING OFF AN,

1 ELEVATOR, I'M GOING TO PUT MY HEAD DOWN AND WALK. IT'S
2 NOT BECAUSE I DON'T LIKE YOU OR HAVE ANY REGARD FOR YOU
3 OR BECAUSE I'M BEING RUDE. I HOPE YOU UNDERSTAND THAT
4 WE HAVE TO PLAY BY THE RULES HERE. I WILL HAVE A CHANCE
5 TO TALK TO YOU WHEN I QUESTION WITNESSES AND THEN IN MY
6 CLOSING. UNTIL THEN, I JUST ASK YOU TO BE ATTENTIVE AND
7 FAIR AND JUDGE THIS ON THE FACTS. THANK YOU, MEMBERS OF
8 THE JURY.

9 THE COURT: THANK YOU, COUNSEL. CALL
10 YOUR FIRST WITNESS.

11 MR. BANKS: MAY I MOVE THIS AWAY, YOUR
12 HONOR, UNLESS YOU WANT THIS HERE?

13 THE COURT: NO.

14 MR. SALMANSON: PLAINTIFF CALLS WANDA
15 SPEIGHT TO THE STAND.

16 THE CLERK: STATE AND SPELL YOUR FULL
17 NAME FOR THE RECORD, PLEASE.

18 WANDA SPEIGHT, PLAINTIFF'S WITNESS,
19 AFFIRMS.

20 THE WITNESS: MY NAME IS WANDA,
21 W-A-N-D-A, JAMES, J-A-M-E-S. LAST NAME IS SPEIGHT,
22 S-P-E-I-G-H-T.

23 DIRECT EXAMINATION

24 BY MR. SALMANSON:

25 Q. GOOD AFTERNOON, MISS SPEIGHT.

1 A. GOOD AFTERNOON.

2 Q. IF YOU ARE NERVOUS, JUST TAKE YOUR TIME.

3 CAN YOU TELL ME YOUR AGE?

4 A. I'M 51.

5 Q. AND ARE YOU MARRIED?

6 A. YES.

7 Q. AND IS YOUR HUSBAND IN THE COURTROOM?

8 A. HE IS.

9 Q. AND CAN YOU JUST POINT HIM OUT?

10 A. CALVIN.

11 Q. AND DO YOU HAVE KIDS?

12 A. YES. WE HAVE TWO CHILDREN. WE HAVE A DAUGHTER

13 MEGAN, WHO IS A SENIOR IN HIGH SCHOOL, AND WE HAVE A

14 SON, CALVIN, JR., WHO IS A FRESHMAN IN HIGH SCHOOL.

15 Q. AND CAN YOU TELL US WHERE YOU GREW UP, A LITTLE

16 BIT ABOUT YOUR BACKGROUND LEADING UP THROUGH COLLEGE?

17 A. SURE. I'M ORIGINALLY FROM PHILADELPHIA. WHEN I

18 WAS FIRST BORN, MY FAMILY MOVED TO NORTH PHILADELPHIA.

19 BEFORE I WENT TO SCHOOL, WE MOVED TO THE MOUNT AIRY

20 SECTION OF PHILADELPHIA. I WENT TO PASTORIUS ELEMENTARY

21 SCHOOL IN GERMANTOWN, WAGNER JUNIOR HIGH IN WEST OAK

22 LANE, AND GRADUATED AT THE AGE OF 16 FROM PHILADELPHIA

23 HIGH SCHOOL FOR GIRLS.

24 Q. AND DID YOU GO ON TO COLLEGE?

25 A. I DID. I ATTENDED DICKINSON COLLEGE IN

1 CARLISLE, PENNSYLVANIA WHERE I OBTAINED A BA IN
2 ECONOMICS.

3 Q. AND DO YOU HAVE ANY OTHER DEGREES?

4 A. I DO. I HAVE AN MBA FROM DREXEL. I MAJORED IN
5 FINANCE.

6 Q. WHEN DID YOU OBTAIN THAT DEGREE?

7 A. I GOT THAT DEGREE IN JUNE OF 1988. I WENT TO
8 SCHOOL WHILE WORKING FULL TIME.

9 Q. AND IF YOU COULD JUST TAKE ME THROUGH YOUR
10 EMPLOYMENT HISTORY, STARTING WITH YOUR FIRST JOB AFTER
11 COLLEGE.

12 A. SURE. WHEN I FIRST GRADUATED FROM COLLEGE, I
13 GOT A JOB WITH FIDELITY BANK, WAS IN THEIR CORPORATE
14 CREDIT TRAINING PROGRAM, AND IT WAS ENTRY LEVEL POSITION
15 TO EXPOSE ANALYZES TO THEIR COMMERCIAL BANKING AREA. I
16 STARTED OUT AS A CREDIT ANALYST, AND OVER A NINE-MONTH
17 PERIOD GOT PROMOTED TO SENIOR CREDIT ANALYST. AFTER
18 ABOUT A YEAR AND-A-HALF, I HAD EXCELLED IN ANALYTICAL
19 WORK AND WAS ASKED TO BE ONE OF THE ASSISTANT MANAGERS
20 OF THE CREDIT DEPARTMENT.

21 QUITE FRANKLY, THAT IS WHEN I GOT SOME OF
22 MY FIRST EXPERIENCE WITH MANAGING INDIVIDUALS. I --
23 ALONG WITH TWO OTHER ASSISTANT MANAGERS AND A PRIMARY
24 MANAGER, WE WERE RESPONSIBLE FOR A TEAM OF CREDIT
25 ANALYSTS. IT WAS ON-THE-JOB TRAINING WHERE I REVIEWED

1 THE WORK PRODUCT OF THE ANALYSTS, AND THEN I HELPED
2 TEACH ACCOUNTING CLASSES ONE DAY A WEEK.

3 Q. HOW OLD WERE YOU WHEN YOU FIRST BECAME A
4 MANAGER?

5 A. I WAS ABOUT 22, 23?

6 Q. AND CAN YOU JUST DESCRIBE THE JOB FUNCTIONS THAT
7 YOU WERE PERFORMING IN ADDITION TO YOUR MANAGEMENT
8 FUNCTIONS?

9 A. IN ADDITION TO THE MANAGEMENT, I ALSO WAS
10 RESPONSIBLE FOR THE OPERATING BUDGET OF THE COMMERCIAL
11 LENDING AREA OF FIDELITY BANK. IT WAS ROUGHLY A
12 \$500 MILLION BUDGET. I REPORTED TO SENIOR MANAGEMENT,
13 AT THAT POINT, ANY VARIANCE, AND I LOOKED INTO ANY
14 DISCREPANCIES BETWEEN WHAT THE ACTUAL RESULTS WERE AND
15 BUDGET AND ALSO COMPARED KIND OF PREVIOUS QUARTERS WITH
16 EXISTING QUARTERS.

17 Q. AND WHAT, IF ANY, EXPERIENCE DID YOU HAVE IN
18 TERMS OF GAINING BUSINESS FOR THE BANK?

19 A. LATER ON I MOVED INTO THE LENDING POSITION WHERE
20 I WAS RESPONSIBLE FOR A PORTFOLIO OF SMALL BUSINESS
21 LOANS, LOANS TO NON-PROFIT ORGANIZATIONS, SOCIAL
22 SERVICES ORGANIZATIONS, AS WELL AS BUSINESS WITH
23 INSURANCE COMPANIES. THAT REQUIRED KNOWING CASH
24 MANAGEMENT SKILLS AND SELLING BANKS, BANKING PRODUCTS,
25 AS WELL AS OFFERING THEM CREDIT OR LOANS.

1 Q. AND HOW LONG DID YOU STAY AT FIDELITY?

2 A. I WAS AT FIDELITY FOR ABOUT FIVE YEARS. IN THE
3 EARLY 1980S, A NUMBER OF NEW YORK CITY BANKS RELOCATED
4 TO WILMINGTON, DELAWARE. I STARTED GETTING CALLS FROM
5 HEADHUNTERS ASKING IF I WOULD BE INTERESTED IN
6 RELOCATING OR JOINING ONE OF THE BANKS DOWN IN DELAWARE.

7 I FOLLOWED UP ON AN OPPORTUNITY WITH
8 CHEMICAL BANK, AND IN MID 1983 I ENDED UP JOINING
9 CHEMICAL BANK IN WILMINGTON.

10 Q. AND WHAT WAS YOUR POSITION WHEN YOU JOINED THEM?

11 A. AT THAT POINT I JOINED -- I CAN'T REMEMBER MY
12 OFFICIAL TITLE, BUT I WAS A LENDING OFFICER/RELATIONSHIP
13 MANAGER CALLING ON FINANCIAL INSTITUTIONS, CORPORATIONS
14 AND PUBLIC SECTOR ENTITIES IN THE MIDWEST AND MY
15 TERRITORY INCLUDED MICHIGAN, INDIANA, KENTUCKY, AND
16 OHIO.

17 Q. AND WHAT DO YOU MEAN BY YOU CALLED ON THEM?

18 A. I HAD KIND OF LIKE A SALES JOB. I WOULD CALL ON
19 THE BANK HOLDING COMPANIES OR BANKING OFFICERS AND TRY
20 TO OBTAIN BUSINESS, SUCH AS PARTICIPATING IN LOANS.
21 AGAIN, AT THAT POINT I WAS WITH CHEMICAL BANK. IT WAS A
22 MONEY CENTER BANK. WE HAD A LARGER LEGAL LENDING LIMIT
23 THAN MANY OF REGIONAL BANKS IN THE MIDWEST;
24 CONSEQUENTLY, IF THEY WANTED TO LEND MONEY TO MIDDLE
25 MARKET COMPANIES, THEY, MANY TIMES, WOULD NEED A LARGER

1 BANK TO HELP PARTICIPATE IN THE LOAN.

2 ADDITIONALLY, THERE WAS A FINANCING
3 VEHICLE CALLED IRB'S. IT WAS -- I CAN'T REMEMBER
4 ANOTHER ACRONYM, BUT ESSENTIALLY IT WAS A TAX-FREE
5 FINANCING VEHICLE, AND IT WAS A BOND IN TERMS OF
6 -- WELL, AT ANY RATE, CHEMICAL BANK WOULD ISSUE A LETTER
7 OF CREDIT TO BANK THESE BONDS, AND IT WAS A FINANCING
8 VEHICLE FOR COMPANIES THAT ALLOWED THEM TO TAKE
9 ADVANTAGE OF LOW INTEREST RATE LOANS.

10 Q. AND DID YOU HAVE OVERSIGHT OF A PORTFOLIO?

11 A. I DID. THE PORTFOLIO THAT I HAD WAS PROBABLY
12 SOMEWHERE BETWEEN 50 MILLION AND 100 MILLION.

13 Q. AND HOW LONG DID YOU STAY AT CHEMICAL?

14 A. I WAS AT CHEMICAL A TOTAL OF FIVE YEARS, BUT
15 AFTER ABOUT THREE AND-A-HALF TO FOUR YEARS I MOVED OVER
16 TO THE REAL ESTATE AREA. THAT IS WHERE I GOT MY INITIAL
17 EXPOSURE, WITH REAL ESTATE LENDING.

18 Q. AND HOW LONG DID YOU STAY IN THE REAL ESTATE
19 AREA ABOUT?

20 A. A YEAR.

21 Q. AND WHAT DID YOU DO IN THE REAL ESTATE AREA?

22 A. THE REAL ESTATE AREA INITIALLY STARTED OUT AS A
23 LENDER RELATIONSHIP MANAGER, BUT THEN I ENDED UP TAKING
24 ON RESPONSIBILITIES AS MANAGER OF THE REAL ESTATE
25 PORTFOLIO. WE HAD -- THE CHEMICAL BANK DELAWARE ENDED

1 UP OBTAINING A LARGE PORTFOLIO OF REAL ESTATE LOANS, SO
2 I WAS RESPONSIBLE FOR PORTFOLIO MANAGEMENT OF THESE REAL
3 ESTATE LOANS. THAT MEANT I HAD TO TRACK PAYMENTS OF
4 INTEREST AND PRINCIPLE TO MAKE SURE THERE WERE NO
5 DELINQUENCIES, I DID MONTHLY SURVEILLANCE OF THE
6 PROPERTIES AND THE PROJECTS TO MAKE SURE THAT THEY WERE
7 MEETING THEIR BUSINESS PLANS, AND I REPORTED QUARTERLY
8 TO THE BOARD OF DIRECTORS ON ANY DETERIORATION IN THE
9 PORTFOLIO.

10 Q. NOW, YOU USED THE WORD "SURVEILLANCE," WHICH I
11 KNOW COMES UP LATER DURING YOUR RESPONSIBILITIES.

12 CAN YOU EXPLAIN TO THE JURY, WHAT DO YOU
13 MEAN BY CONDUCTING SURVEILLANCE OF A LOAN?

14 A. LET'S SEE, SURVEILLANCE IS CHECKING ON -- KIND
15 OF LIKE -- KIND OF LIKE A TEACHER, WHEN YOU HAVE KIND OF
16 A GROUP OF KIDS, KIDS ARE YOUR PORTFOLIO, IN MY CASE,
17 THESE LOANS WERE MY PORTFOLIO. WHAT I WAS RESPONSIBLE
18 FOR DOING WAS MAKING SURE THAT THE LOANS WERE MEETING
19 THE BUSINESS PLAN. MORE IMPORTANTLY, I NEEDED TO MAKE
20 SURE THAT THE BANK WAS GOING TO GET PAID BACK ON A
21 TIMELY BASIS. MANY OF THESE LOANS WERE CONSTRUCTION
22 LOANS ON PROJECTS LOCATED THROUGHOUT THE COUNTRY. I WAS
23 RESPONSIBLE FOR COLLECTING THE FINANCIAL -- OR PEOPLE
24 REPORTING TO ME THAT WOULD BE RESPONSIBLE FOR COLLECTING
25 FINANCIAL STATEMENTS, BRINGING THE FINANCIAL STATEMENTS.

1 I WOULD LOOK AT THE OPERATING RESULTS TO MAKE SURE THEY
2 WERE CONSISTENT WITH THE WAY THE LOAN HAD BEEN
3 UNDERWRITTEN. AS I SAID BEFORE, EVEN BACK THEN THERE
4 WAS A RISK RATING PROCESS THAT I WAS FAMILIAR WITH, AND
5 THAT I HAD TO UTILIZE TO MAKE SURE THAT THE LOANS WERE
6 RISK RATED ADEQUATELY.

7 Q. AND AT THE TIME THAT YOU LEFT, DO YOU KNOW
8 APPROXIMATELY HOW LARGE A PORTFOLIO YOU WERE
9 RESPONSIBILITY FOR?

10 A. SURE. AT THAT POINT, AGAIN, IT WAS ABOUT
11 \$550 MILLION.

12 Q. WHY DID YOU LEAVE CHEMICAL?

13 A. I WAS GETTING MARRIED AND KNEW THAT I WANTED TO
14 HAVE A JOB BACK IN PHILADELPHIA. WHEN I WORKED FOR
15 CHEMICAL BANK OF DELAWARE, I WAS WORKING IN WILMINGTON,
16 COMMUTING FROM PHILADELPHIA, AND I WANTED TO HAVE A JOB
17 BACK IN PHILADELPHIA BECAUSE I LEFT THE COMPANY --
18 BECAUSE I LEFT FIDELITY BANK ON GOOD TERMS, IT WAS
19 FAIRLY EASY TO JUST PICK UP THE PHONE AND CALL AND GET A
20 JOB BACK AT FIDELITY WHEN I WAS READY TO COME BACK TO
21 THE CITY.

22 Q. AND WHAT JOB DID YOU TAKE AT FIDELITY WHEN YOU
23 CAME BACK?

24 A. I MOVED INTO THEIR REAL ESTATE LENDING AREA.

25 Q. OKAY. AND WHAT DID YOU DO IN THE REAL ESTATE

1 LENDING AREA?

2 A. AT THAT POINT, I HAD THE TITLE OF A VP. I MOVED
3 INTO THE REAL ESTATE AREA AS A VP, CALLING ON DEVELOPERS
4 AND INVESTORS WHO WERE INVESTING IN PROJECTS IN THE
5 PHILADELPHIA REGION, REAL ESTATE PROJECTS. WHAT THAT
6 MEANT WAS THAT I WAS RESPONSIBLE FOR GOING OUT,
7 GENERATING BUSINESS, PROVIDING CONSTRUCTION LOANS,
8 COMMERCIAL MORTGAGE LOANS, VARIOUS TYPES OF REAL ESTATE
9 PROPERTIES IN THE REGION.

10 Q. TO WHAT EXTENT, IF ANY, DID YOU GET ANY
11 PROMOTIONS WHILE YOU WERE BACK AT FIDELITY?

12 A. WHEN I WENT BACK TO FIDELITY WITHIN A COUPLE OF
13 YEARS OF GOING BACK I WAS PROMOTED TO VICE-PRESIDENT.

14 Q. WHAT DID THAT ENTAIL?

15 A. ADDITIONAL MONEY, ADDITIONAL RESPONSIBILITY.
16 THE THOUGHT WAS YOUR TITLE WAS CONSISTENT WITH YOUR
17 LEVEL OF RESPONSIBILITY, LEVEL OF AUTHORITY. SO
18 ALTHOUGH I CAN'T REMEMBER THE SPECIFIC AMOUNT, I COULD
19 APPROVE LOANS UP TO A CERTAIN DOLLAR AMOUNT.

20 Q. NOW, AT WHAT POINT DID YOU LEAVE FIDELITY?

21 A. I WORKED IN THE REAL ESTATE AREA OF FIDELITY,
22 AND ACTUALLY THE NAME CHANGED ABOUT THE TIME I REJOINED
23 FIDELITY TO FIRST FIDELITY, THEN LATER IT WAS CHANGED
24 THROUGH MERGERS TO WACHOVIA. I STAYED IN THEIR REAL
25 ESTATE AREA FOR ABOUT FOUR YEARS, THEN DURING THE

1 DOWNTURN, I ENDED UP MOVING INTO THEIR COMMERCIAL
2 LENDING AREA. AGAIN, AN AREA THAT I WAS FAMILIAR WITH,
3 AND I WAS THERE FOR ABOUT A YEAR.

4 Q. AND WHY DID YOU LEAVE FIDELITY?

5 A. AT THAT POINT, OUR SECOND CHILD HAD BEEN BORN,
6 AND I WANTED TO BE IN A WORK ENVIRONMENT THAT I COULD
7 BETTER BALANCE MY FAMILY AND MY CAREER RESPONSIBILITIES.

8 Q. AND WHAT DID YOU DO IN THAT REGARD?

9 A. THERE WAS A LOAN FUND CALLED THE DELAWARE VALLEY
10 COMMUNITY REINVESTMENT FUND, NOW CALLED THE REINVESTMENT
11 FUND. THE LOAN FUND HAD BEEN AROUND FOR PROBABLY THREE
12 OR FOUR YEARS AT THAT POINT, AND I HAD MET A NUMBER OF
13 PEOPLE FROM THE LOAN FUND THROUGH VARIOUS PROFESSIONAL
14 NETWORKING CONTACTS.

15 AT ANY RATE, THEY NEEDED ANOTHER LENDER
16 AND I STARTED TALKING TO THEM ACTUALLY BEFORE OUR SON
17 WAS BORN ABOUT PERHAPS JOINING THE FUND. AFTER CALVIN,
18 JR., WAS BORN AND I WENT BACK FROM MATERNITY LEAVE, THEY
19 MADE ME AN OFFER THAT WAS EXTREMELY ATTRACTIVE BECAUSE
20 OF THE FLEXIBILITY IN TERMS OF MY SCHEDULE.

21 Q. AND WHAT WAS YOUR TITLE WHEN YOU WENT THERE?

22 A. WHEN I INITIALLY WENT TO THE REINVESTMENT FUND,
23 I WAS KIND OF A LOAN OFFICER. BECAUSE IT WAS NOT A
24 CORPORATE ENVIRONMENT, THEY DID NOT HAVE THE TYPES OF
25 TITLES THAT I HAD HAD IN THE BANKING INDUSTRY.

1 SO I WENT IN AS A LOAN OFFICER, AND WHAT
2 I DID WAS WORK WITH A NUMBER OF NONPROFITS WHO LENT --
3 WHO WERE ENGAGED IN PROJECTS IN ECONOMICALLY BLIGHTED
4 AREAS, PRIMARILY, THE PHILADELPHIA REGION, PHILADELPHIA,
5 FOUR ADJACENT PENNSYLVANIA COUNTIES, AND THEN SEVERAL OF
6 THE COUNTIES IN NEW JERSEY; FOR EXAMPLE, THERE WAS AN
7 OUTFIT -- NONPROFIT CALLED ST. JOE'S HOUSING, THAT
8 DEVELOPS HOUSING IN CAMDEN. THAT WAS ONE OF MY
9 BORROWERS, WHERE I WOULD LEND MONEY.

10 THERE WAS A LOT OF HANDS-ON WORK, AND
11 THEY WOULD USE THE MONEY TO PURCHASE REHAB HOUSING IN
12 CAMDEN. ALSO LENT MONEY TO SOCIAL SERVICE ORGANIZATIONS
13 THAT NEEDED LINES OF CREDIT TO BRIDGE STATE FUNDING
14 UNTIL THEIR FUNDING ACTUALLY CAME THROUGH, AND THEN OVER
15 TIME THE FUNDING -- THE LOAN -- THE REINVESTMENT FUND
16 STARTED ATTRACTING MORE INVESTORS, AND WE WERE ABLE TO
17 BROADEN THE TYPE OF LENDING THAT WE WERE GOING TO DO.

18 I WAS ASKED TO WRITE A BUSINESS PLAN SO
19 THAT THE REINVESTMENT FUND COULD GET INTO BUSINESS
20 LENDING, AND I ENDED UP WRITING THAT PLAN. I ALSO
21 WORKED VERY CLOSELY WITH FACILITIES LENDING, MEANING
22 LENDING MONEY TO PLACES LIKE THE GERMANTOWN YMCA,
23 GERMANTOWN YWCA, AS WELL AS A NUMBER OF DAYCARE
24 PROVIDERS, BOTH NON-PROFIT AND FOR-PROFIT DAYCARE
25 PROVIDERS.

1 Q. TO WHAT EXTENT DID YOU HAVE SUCCESS IN THAT JOB?

2 A. IT WAS AN EXTREMELY GRATIFYING, IN THAT, FOR
3 EXAMPLE, THE FEDERAL GOVERNMENT STARTED GIVING OUT WHAT
4 WAS CALLED CDFI FUNDING, AND BECAUSE OF THE WORK THAT I
5 HAD DONE ON FACILITIES LENDING AND WITH THE BUSINESS
6 LENDING, WE WERE ABLE TO GET ONE OF THE FIRST GRANTS FOR
7 WHICH WAS \$2 MILLION FROM THE CDFI FUND. THE LENDING
8 THAT -- IN TERMS OF THE BUSINESS LENDING, FACILITIES
9 LENDING INCREASED DRAMATICALLY AS A RESULT OF MY BEING
10 AT THE REINVESTMENT FUND IN THE WORK THAT WE DID.

11 Q. DID YOU EVENTUALLY GET A MORE FORMAL TITLE AT
12 THE FUND?

13 A. I DID. I WAS GIVEN THE TITLE, DIRECTOR OF
14 LENDING.

15 Q. DO YOU RECALL OVER HOW MANY LOANS AND HOW LARGE
16 A PORTFOLIO YOU HAD RESPONSIBILITY FOR?

17 A. YOU KNOW, IT'S INTERESTING, THE DOLLAR AMOUNT
18 WAS NOT NECESSARILY HUGE, BUT THE NUMBER OF LOANS --
19 THERE WERE OVER 100, CLOSE TO 150 DIFFERENT LOANS, BUT,
20 QUITE FRANKLY, THE IMPACT THAT THAT TYPE OF LENDING HAD
21 ON THE COMMUNITY WAS JUST TREMENDOUS, BECAUSE TYPICALLY
22 OUR BORROWERS WERE BORROWERS THAT MOST OF THE BANKS,
23 MORE TRADITIONAL FINANCIAL INSTITUTIONS, WOULD NOT WANT
24 TO LEND TO.

25 Q. AND WHY DID YOU LEAVE THE REINVESTMENT FUND?

1 A. I LEFT THE REINVESTMENT FUND IN 1998 FOR
2 ECONOMIC REASONS. MY HUSBAND ENDED UP NOT WORKING, AND
3 THAT OCCURRED IN ABOUT 1997.

4 Q. WHY WAS THAT? SORRY, WHY WAS THAT?

5 A. HE HAD GOTTEN HURT ON HIS JOB AND WAS NOT ABLE
6 TO CONTINUE TO WORK.

7 Q. WHAT WAS THE NATURE OF THE INJURY?

8 A. HE WAS WHAT IS CALLED A STEAMFITTER. HE WORKED
9 FOR LOCAL 420, AND THAT MEANT THAT HE LAID PIPING FOR --
10 AND IT HAPPENED TO BE AT THE WACHOVIA CENTER SPORTS
11 ARENA. HE AND A NUMBER OF THE OTHER PEOPLE WORKING
12 INHALED FIRE-PROOFING MATERIAL AND HIS LUNGS GOT
13 AFFECTED, SO HE WAS NOT ABLE TO WORK, AND IT WAS AFTER
14 ABOUT A YEAR AND-A-HALF AFTER THE INCIDENT.

15 Q. AND SO WHAT DID YOU DO AS A RESULT OF THAT?

16 A. I STARTED -- I REALIZED -- I SHOULD BACK UP A
17 MINUTE. PART OF WHAT HAPPENED WHEN I WENT TO THE
18 REINVESTMENT FUND WAS THAT WE, CALVIN AND I, MADE THE
19 DECISION THAT HE WOULD BE THE PRIMARY BREADWINNER, AND I
20 WOULD FOCUS -- I WOULD CONTINUE TO WORK, BUT I WOULD
21 HAVE -- I WOULD HAVE TO BALANCE -- I WOULD HAVE THE
22 PRIMARY RESPONSIBILITY FOR THE CHILDREN.

23 AFTER CALVIN STOPPED WORKING, WE DIDN'T
24 HAVE HIS INCOME AND WE WERE JUST RELYING ON MY INCOME.
25 WHEN I WENT TO WORK FOR THE REINVESTMENT FUND, I WENT TO

1 WORK AT A LOWER PAY SCALE THAN I HAD AT THE BANK, WHICH
2 WAS FINE BECAUSE, YOU KNOW, IT GAVE ME -- I HAD TO
3 BALANCE. IT WAS A TRADE OFF. WE REALIZED THAT WITH HIS
4 INCOME, NOT HAVING HIS INCOME, THAT I NEEDED TO MAKE
5 MORE MONEY SO THAT IS WHEN I DECIDED I WANTED TO GO BACK
6 TO THE FOR-PROFIT ARENA AND BE ABLE TO BE IN A
7 CHALLENGING POSITION, BUT ALSO BE IN A POSITION TO EARN
8 ADDITIONAL INCOME FOR THE FAMILY.

9 Q. AND HOW DID YOU GO ABOUT TRYING TO FIND ANOTHER
10 JOB?

11 A. SIMPLY NETWORKING. I TALKED TO ACTUALLY THE
12 BOARD MEMBERS AND MANY PEOPLE INVOLVED WITH THE
13 REINVESTMENT FUND, AND THROUGH THOSE CONTACTS I STARTED
14 TALKING TO A NUMBER OF EMPLOYERS, INCLUDING FANNIE MAE,
15 AND ONE OF THE PLACES THAT I WAS REFERRED TO WAS GMAC
16 COMMERCIAL MORTGAGE. SO I WAS GIVEN THE NAME OF
17 SOMEBODY BY THE NAME OF TOM MCMANUS. I SET UP AN
18 APPOINTMENT AND WENT TO TALK TO HIM AND AFTER SEVERAL
19 INTERVIEWS, I ENDED UP BEING OFFERED A POSITION IN HIS
20 -- IN THE REAL ESTATE AREA.

21 Q. WHAT POSITION WERE YOU OFFERED?

22 A. THIS WAS, AGAIN, IN 1998 FOR GMAC COMMERCIAL
23 MORTGAGE. AT THAT POINT -- WE ARE GOING TO GO WITH
24 ACRONYMS AGAIN -- THERE WAS AN AREA THAT TOM HEADED UP
25 CALLED IFG, INTERMEDIATE FINANCE GROUP, AND THAT WAS AN

1 AREA OF GMAC THAT PROVIDED BRIDGE LOANS OR SHORT-TERM
2 LOANS.

3 THE IDEA WAS THAT WE WOULD LEND MONEY,
4 THIS AREA WOULD LEND MONEY, IT WAS ON THE BALANCE SHEET,
5 USING, AGAIN, GMAC'S MONEY TO DEVELOPERS OR INVESTORS
6 WHO WERE PURCHASING PROJECTS. THEY MAY HAVE NEEDED SOME
7 MINOR RENOVATIONS OR MINOR REPOSITIONING, AND THEY WOULD
8 GET A PROJECT LEASED UP, AND THEN THEY WOULD PUT A
9 PERMANENT LOAN ON IT. THE THOUGHT WAS THAT TO THE
10 EXTENT WE PROVIDED SHORT-TERM OR THIS INTERIM FINANCING,
11 THEN WE COULD GET THE LONGER-TERM FINANCING, AND THAT
12 WAS TRULY THE BREAD AND BUTTER OF GMAC'S OPERATION OR
13 ITS SERVICES.

14 Q. WHAT SORT OF THINGS WOULD YOU HAVE TO DO IN YOUR
15 POSITION IN THE IFG GROUP?

16 A. SURE. AS AN UNDERWRITER, I WAS RESPONSIBLE FOR
17 THE FULL SPECTRUM OF AN ANALYSIS, WHICH WOULD MEAN THAT
18 WE HAD PEOPLE CALL PRODUCERS WHO WERE JUST NOTHING MORE
19 THAN PRETTY MUCH SALESPEOPLE. THEY WOULD GO OUT AND
20 MEET WITH DEVELOPERS.

21 I SHOULD TELL YOU THAT OUR OFFICE IS
22 LOCATED IN HORSHAM, BUT THE PRODUCERS THAT WE SUPPORTED
23 WERE IN OFFICES -- GMAC OFFICES LOCATED THROUGHOUT THE
24 COUNTRY. I THINK AT ONE POINT THERE WERE PROBABLY CLOSE
25 TO 30 OFFICES LOCATED THROUGHOUT THE COUNTRY FROM NEW

1 YORK, UP THROUGH NEW ENGLAND TO CHICAGO, CALIFORNIA,
2 TEXAS, DOWN WASHINGTON, IN THE CAROLINAS, AND FLORIDA.

3 THEY WOULD SEND IN A PACKAGE, AND I WOULD
4 GET -- IF IT LOOKED LIKE SOMETHING WE COULD DO AND THE
5 HEAD OF THE UNIT WOULD REVIEW IT, INITIALLY, BUT IF IT
6 LOOKED LIKE SOMETHING WE COULD DO, I WOULD CRUTCH THE
7 NUMBERS OR TAKE A PRELIMINARY SET OF FINANCIAL
8 STATEMENTS, FINANCIAL NUMBERS, AND WHAT WE CALL SIZE A
9 LOAN, MEANING THAT WE WOULD LOOK AT THE NUMBERS, FIGURE
10 OUT HOW MUCH OF A LOAN THE INCOME FROM THE PROPERTY
11 COULD SUPPORT.

12 AND THESE PROPERTIES VARIED. THEY COULD
13 BE OFFICE BUILDINGS, THEY COULD BE SHOPPING CENTERS,
14 THEY COULD BE INDUSTRIAL BUILDINGS, WAREHOUSES. I DON'T
15 KNOW IF I SAID APARTMENT BUILDINGS. FOR EXAMPLE, IT
16 COULD BE LIKE A BUILDING AT 1500 OR 15TH AND MARKET
17 STREET, AND A BUILDING THAT IF YOU KNEW THAT BUILDING AT
18 ALL, TEN, 15 -- ONE PENN CENTER, THE BUILDING -- IT
19 MIGHT HAVE BEEN BUILT IN THE 1970S, BUT BY LATE 1990S IT
20 NEEDED TO BE RENOVATED.

21 AND WHAT WE WOULD DO IS WE WOULD PROVIDE
22 A LOAN THAT WOULD PROVIDE CONSTRUCTION OR REHAB
23 FINANCING. THEY TYPICALLY WHEN THEY WERE DOING THE
24 REHAB WOULD HAVE EVERYONE IN THE BUILDING MOVE OUT, AND
25 THEN START LEASING UP THE BUILDING TO HAVE IT -- GET

1 100 PERCENT LEASED UP OR CLOSE TO 100 PERCENT LEASED UP,
2 THEN THEY WOULD PUT A PERMANENT MORTGAGE ON THE
3 BUILDING.

4 BUT IT REQUIRED A LOT OF ANALYTICAL WORK.
5 AGAIN, YOU WOULD TAKE FINANCIAL STATEMENTS, YOU WOULD DO
6 A PRELIMINARY ANALYSIS, YOU WOULD ISSUE AN APPLICATION.
7 TO THE EXTENT THE BORROWER OR THE PROSPECTIVE BORROWER
8 ACCEPTED THE APPLICATION, THEY WOULD SIGN IT AND SEND IN
9 A DEPOSIT.

10 ONCE WE RECEIVED THE DEPOSIT BACK, WE
11 WOULD ORDER WHAT WAS CALLED THIRD-PARTY REPORTS, SO THAT
12 WOULD INCLUDE AN APPRAISAL; IT WOULD INCLUDE AN
13 ENVIRONMENTAL REPORT; IT ALSO WOULD INCLUDE ORDERING AN
14 ENGINEERING REPORT TO MAKE SURE THAT YOU FELT
15 COMFORTABLE THAT FROM A STRUCTURAL STANDPOINT THE
16 BUILDING -- YOU KNOW, IF IT NEEDED SOME TYPE OF REPAIRS,
17 AN ENGINEERING REPORT WOULD IDENTIFY THAT. THE
18 ENVIRONMENTAL REPORT WOULD IDENTIFY ANY TYPE OF
19 ENVIRONMENTAL PROBLEMS.

20 SO, FOR EXAMPLE, WHEN THE FIRST LOANS
21 THAT I WORKED ON WAS ON A LARGE MILLION-PLUS SQUARE FOOT
22 RETAIL CENTER OR SHOPPING CENTER LOCATED OUTSIDE OF
23 CLEVELAND, OHIO. ONE OF THE THINGS THAT WE FOUND WAS
24 THAT THERE WERE ALL SORTS OF OLD STORAGE TANKS
25 UNDERNEATH THE -- OR ADJACENT TO THE PROPERTY FROM WHEN

1 THEY WERE USING THE UNDERGROUND STORAGE TANKS TO HEAT
2 GASOLINE -- TO HEAT PETROLEUM TO HEAT THE BUILDING, ONE
3 OF THE THINGS I HAD TO DO BEFORE I CLOSED THE LOAN WAS
4 MADE SURE THE TANKS WERE REMOVED AND THAT THERE WAS SOME
5 TYPE OF MONITORING BEING DONE TO MAKE SURE THERE WAS NO
6 TYPE OF ENVIRONMENTAL ISSUE.

7 AS I SAID, THIRD-PARTY REPORTS. I TALKED
8 ABOUT THE ENGINEERING REPORTS, THE ENVIRONMENTAL REPORT,
9 AND THEN THE APPRAISAL. THE APPRAISAL USUALLY GAVE TWO
10 VALUES. THEY WOULD GIVE AN AS-IS VALUE, THEN AN
11 AS-COMPLETE VALUE, BECAUSE, AGAIN, THE APPRAISALS, THE
12 PROJECTS THAT WE WERE LENDING WERE PROJECTS THAT WERE
13 BEING REPOSITIONED. THEY WERE BEING PURCHASED BY A
14 DEVELOPER OR INVESTOR. OR BECAUSE THEY THOUGHT THE
15 PROPERTY WAS UNDERMANAGED, UNDERUTILIZED, THERE WAS
16 VALUE THERE, THEY WOULD DO THE RENOVATIONS, LEASE IT UP,
17 LEASE IT UP AT HIGHER RENTS THAN HAD BEEN THERE BEFORE,
18 AND THEN USUALLY FLIP THE BUILDING, EITHER SELL IT OR
19 PUT A PERMANENT LOAN ON THE PROPERTY.

20 THE COURT: WE ARE GOING TO TAKE AN
21 AFTERNOON BREAK NOW. WE WILL BE IN RECESS FOR 10 OR 15
22 MINUTES.

23 LADY AND GENTLEMEN, PLEASE DO NOT TALK
24 ABOUT THE CASE AMONG YOURSELVES, AND WE WILL GET YOU
25 RIGHT BACK OUT HERE AND PROCEED, ALL RIGHT?

1 YOU ARE EXCUSED.

2 (JURY OUT.)

3 THE COURT: WE WILL BE IN RECESS FOR AT
4 LEAST TEN MINUTES, COUNSEL. YOUR CLIENT HAS
5 DEMONSTRATED HER KNOWLEDGE AND ABILITY. LET'S TRY TO
6 LIMIT THE ANSWERS AND NOT LET THEM GO ON.

7 MR. SALMANSON: I'M TRYING TO GET IN
8 THERE, YOUR HONOR.

9 THE COURT: I KNOW YOU ARE GETTING THERE
10 AND --

11 MR. SALMANSON: I'M TRYING TO GET IN TO
12 KEEP IT MOVING ALONG.

13 THE COURT: THAT IS ALL RIGHT.

14 MR. SALMANSON: I WILL TAKE THE
15 OPPORTUNITY DURING THE BREAK.

16 THE COURT: NO PROBLEM. WE WILL MOVE IT
17 ALONG, AND WE WILL CONTINUE TO MOVE ON, ALL RIGHT?

18 WE ARE IN RECESS.

19 (BREAK TAKEN.)

20 (JURY IN.)

21 THE COURT: LADY AND GENTLEMEN, FROM NOW
22 ON WHEN YOU ENTER THE COURTROOM YOU MAY BE SEATED RIGHT
23 AWAY. EVERYONE ELSE IS TO REMAIN STANDING UNTIL YOU ARE
24 SEATED. NOW EVERYONE ELSE CAN BE SEATED. ALL RIGHT.
25 YOU MAY PROCEED COUNSEL.

1 BY MR. SALMANSON:

2 Q. OKAY. MISS SPEIGHT, I THINK WHEN WE LEFT OFF
3 YOU WERE IN THE INTERMEDIATE FINANCE GROUP. AND TO WHAT
4 EXTENT DURING YOUR TIME THERE WERE YOU PERFORMING ASSET
5 MANAGEMENT FUNCTIONS?

6 A. INITIALLY, I WAS NOT -- I WAS THERE TO DO
7 UNDERWRITING FUNCTIONS AND THEN OVER TIME THE MANAGER,
8 ONE OF THE MANAGERS, JOHN KELLER HAD ME START LOOKING AT
9 PART OF OUR EXISTING PORTFOLIO THAT SEEMED TO NOT BE
10 PERFORMING WELL AND WHAT WOULD HAPPEN IS, HE WOULD SAY,
11 WANDA, CALL SERVICING AND FIND OUT, YOU KNOW, KIND OF
12 WHAT'S GOING ON WITH THIS? THERE WAS RESERVES SET UP
13 AND CERTAIN THINGS WERE SUPPOSED TO HAPPEN AND THEY WERE
14 NOT HAPPENING SO AS I STARTED DOING THAT MORE OFTEN HE
15 SAID YOU KNOW WE REALLY NEED TO HAVE OUR OWN ASSET
16 MANAGEMENT FUNCTION, AND AT ONE POINT TOM MCMANUS AND
17 JOHN KELLER CAME TO ME AND SAID WANDA WOULD YOU CONSIDER
18 MOVING FROM DOING THE UNDERWRITING FUNCTION TO DOING AN
19 ASSET MANAGEMENT, STARTING UP OUR ASSET MANAGEMENT
20 FUNCTION AND I SAID YES.

21 Q. HOW DID YOU FEEL ABOUT THAT CHANGE IN POSITION?

22 A. IT WAS A NEW EXPERIENCE FOR ME AT GMAC SO I
23 THOUGHT THAT WOULD BE A GOOD THING.

24 Q. AND WHAT DID YOU DO TO START THAT ASSET
25 MANAGEMENT FUNCTION?

1 A. WELL, QUITE FRANKLY BOTH TOM AND JOHN ARE
2 EXTREMELY SYSTEMATIC AND EFFICIENT PEOPLE AND THEY
3 WANTED TO SET UP SYSTEMS SO THAT WE COULD BETTER TRACK
4 -- SO I COULD BETTER TRACK THE PORTFOLIO SO FIRST OF ALL
5 WE STARTED DOING REPORTS. WE HAD A PERIODIC DELINQUENCY
6 REPORT, WE STARTED LOOKING AT TRENDS IN THE PORTFOLIO,
7 THINGS LIKE WHETHER OR NOT THE INSURANCE WAS PAID ON A
8 TIMELY BASIS. WE WOULD LOOK AT INSURANCE POLICIES FOR
9 THE PORTFOLIO. AND ANY INSURANCE POLICY THAT WAS
10 EXPIRING WITHIN THE NEXT 60 DAYS, WE WOULD START
11 TRACKING IT. THE SAME THING WITH TAXES. AND WHAT WE
12 WERE DOING QUITE FRANKLY WAS VERY SIMILAR TO WHAT THE
13 SERVICING AREA WAS DOING BUT AGAIN, WE WERE FINDING THAT
14 THEY WERE NOT DOING THINGS ON AS CONSISTENT A BASIS.
15 FOR EXAMPLE, AT ONE POINT, I THINK THAT THERE MIGHT HAVE
16 BEEN A FIRE AT ONE OF OUR PROPERTIES, TURNED OUT WE
17 DIDN'T HAVE COPIES OF THE INSURANCE POLICIES. THE GOOD
18 NEWS IS THAT THERE WAS AN INSURANCE POLICY BUT THE
19 INSURANCE HAD EXPIRED AND NO ONE IN SERVICING KNEW THAT
20 SO THERE WERE INSTANCES -- RECURRING INSTANCES LIKE THAT
21 THAT WE REALIZED WE NEEDED TO ESTABLISH OUR OWN UNIQUE
22 AREA TO FOLLOW THE ASSET MANAGEMENT OF OUR PORTFOLIO,
23 THE DIFFERENCE AGAIN BETWEEN SERVICING AND IFG WAS THAT
24 OUR LOANS WERE USING GMAC'S MONEY, SERVICING WAS
25 RESPONSIBLE FOR THIRD PARTY MONEY.

1 Q. AND TO WHAT EXTENT DID YOU PARTICIPATE IN THE
2 DEVELOPMENT OF THE SYSTEMS FOR THE ASSET MANAGEMENT?

3 A. I WAS AN INTEGRAL PART OF THINGS IN TERMS OF
4 DEVELOPING THE REPORTS. THERE WAS ANOTHER TOOL THAT WE
5 DEVELOPED CALLED A SHORT FORM. IT WAS SOMETHING THAT
6 QUITE FRANKLY JOHN HAD USED AT A PREVIOUS PLACE WHERE HE
7 WORKED, A BANK WHERE HE WORKED, BUT I HELPED TO REFINE
8 IT TO MEET THE NEEDS OF THE TYPE OF LENDING THAT WE WERE
9 DOING. IT WAS JUST A DOCUMENT THAT CAPTURED ALL OF THE
10 SALIENT POINTS OF A LOAN. IT INCLUDED LISTING OF SAY
11 THE FIVE LARGEST TENANTS, THE EXPIRATION DATE OF THOSE
12 LEASES. ALL THE FACTS IN TERMS OF THE INTEREST RATE,
13 THE MATURITY DATE IF THERE WAS A CHANGE IN THE INTEREST
14 RATE OR SOME TYPE OF A TRIGGER, TRIGGER FACTOR THEN THAT
15 WOULD BE CAPTURED ON THE SHORT FORM.

16 Q. HOW LONG DID YOU STAY IN IFG?

17 A. IFG AS, WELL, WHAT WE HAVE NOT TALKED ABOUT IS
18 HOW GMAC GREW OVER THE YEARS THAT I WAS THERE. AGAIN I
19 STARTED IN 1998 AND PROBABLY WHEN I FIRST GOT TO IFG,
20 THE PORTFOLIO WAS SOMEWHERE UNDER A BILLION DOLLARS,
21 THAT WAS JUST KIND OF A COLLECTION OF LOANS THAT HAD
22 BEEN HOUSED AND HAD BEEN MADE OVER THE YEARS, BUT OVER
23 THE YEARS WE KEPT GROWING THE PORTFOLIO BECAUSE WE
24 REALIZED IT WAS A SUCCESSFUL PROGRAM.

25 IN ABOUT 2004, AGAIN I STARTED IN 1998

1 BUT IN ABOUT 2004, WE MERGED THE IFG PORTFOLIO WITH PART
2 OF THE COMPANY CALLED C-2. AS WE HAVE INDICATED BEFORE,
3 GMAC WAS A SUBSIDIARY OF GM. JUST LIKE GM WHO HAS ALL
4 THESE SEPARATE CAR COMPANIES, OLDSMOBILES, SATURNS,
5 PONTIAC, BUICK, WE HAD UNITS THAT KIND OF COMPETED
6 AGAINST EACH OTHER. WE OFFERED BASICALLY THE SAME TYPE
7 OF UNDERWRITING AND LOAN PRODUCTS BUT C-2 WAS BASED IN
8 NEW YORK AND WE WERE BASED IN HORSHAM BUT WE ESSENTIALLY
9 WERE DOING THE SAME TYPE OF THINGS SO IT MADE MORE SENSE
10 FOR US TO COMBINE OPERATIONS FOR EFFICIENCY PURPOSES AND
11 THAT WAS ROUGHLY THE SPRING OF 2004.

12 Q. AND PRIOR TO THE MERGER, WERE YOU SUPERVISING
13 ANY INDIVIDUALS?

14 A. I WAS. WHEN WE FIRST STARTED THE ASSET
15 MANAGEMENT FUNCTION, I WAS ALLOWED TO HIRE INITIALLY ONE
16 ANALYST AND THEN KIND OF EVERY SIX MONTHS AS OUR
17 PORTFOLIO WAS GROWING, I WOULD ADD AN ASSET MANAGER SO
18 AT THE TIME OF THE MERGER WITH IFG AND C-2 I THINK
19 SUPERVISED PROBABLY AROUND 7 OR 8 ASSET MANAGERS AND AT
20 LEAST ONE ANALYST.

21 Q. AND HOW ABOUT AFTER THE MERGER?

22 A. AFTER THE MERGER, THERE WAS A TEAM OF ASSET
23 MANAGERS UP IN NEW YORK AND THE PERSON WHO HEADED UP --
24 AND SO WE NEEDED TO MERGE THE TWO TEAMS. I WAS ASKED TO
25 HEAD UP THE MERGED TEAM WHICH I WAS DELIGHTED TO DO

1 BECAUSE I HAD ALWAYS BEEN IMPRESSED WITH THE C-2 STAFF
2 AND WITH THE TYPE OF LENDING. THEY QUITE FRANKLY DID
3 MORE SOPHISTICATED, MORE COMPLEX LENDING THAN WE HAD
4 DONE IN IFG SO I WAS HAPPY TO GET THAT ADDITIONAL
5 RESPONSIBILITY TO HAVE THE NEW PEOPLE AND QUITE FRANKLY
6 TO HAVE THE EXPOSURE TO A MORE KIND OF SOPHISTICATED,
7 COMPLEX TYPE OF ENVIRONMENT.

8 Q. AND TO WHAT EXTENT, IF ANY, DID YOU HAVE
9 CONCERNS ABOUT THE WAYS IN WHICH THE TWO GROUPS WOULD
10 INTEGRATE?

11 A. NORMAL CONCERNS WHEN YOU ARE MERGING TWO GROUPS
12 THAT HAD OPERATED INDEPENDENTLY. IT'S LIKE, I THINK
13 SOMEONE HAD SAID LIKE IT IS BEING DIVORCED AND
14 MERGING -- REMARRYING AND MERGING TWO FAMILIES. I MEAN
15 THAT IS REALLY WHAT IT WAS, MERGING FAMILIES AND EVERY
16 ONE KIND OF HAD THEIR OWN WAYS OF DOING THINGS SO YOU
17 KNOW I DON'T KNOW IF YOU CALL IT CONCERN BUT I WAS
18 DEFINITELY AWARE THAT WE WOULD HAVE TO KIND OF
19 STREAMLINE OUR SYSTEMS AND POLICIES AND OUR PROCEDURES.

20 Q. AND TO WHAT EXTENT WERE THEIR DIFFERENT TYPES OF
21 POLICIES AND PROCEDURES GOING ON IN NEW YORK?

22 A. IT HAPPENED -- I WON'T SAY, THEY WERE NOT
23 SIGNIFICANTLY DIFFERENT BUT THERE WERE CLEARLY SOME
24 SUBTLE DIFFERENCES IN THAT SINCE THE HORSHAM AREA, THE
25 HORSHAM ASSET MANAGERS WERE CLOSE TO SERVICING, QUITE

1 FRANKLY MANY OF OUR STAFF WERE HIRED FROM THE SERVICING
2 AREA SO THEY WERE MORE FAMILIAR WITH MCCRACKEN, THE
3 CAPABILITIES OF MCCRACKEN VERSUS C-2 HAD DEVELOPED THEIR
4 OWN SYSTEMS AND THEY HAD THEIR OWN KIND OF WAYS OF
5 TRACKING THINGS SO WE HAD TO KIND OF GENTLY BRING THEM
6 ALONG TO ASSIST, A SYSTEM THAT MET EVERYONE'S NEEDS.

7 Q. AND YOU SAID THAT YOU WERE ASKED TO HEAD UP THIS
8 COMBINED GROUP?

9 A. YES, THAT'S CORRECT.

10 Q. DID THE COMBINED GROUP GET A NAME?

11 A. THE COMBINED GROUP WAS CALLED PLG, PROPRIETARY
12 LENDING GROUP BECAUSE IT HAD BEEN IFG AND IT HAD BEEN
13 C-2, COMMERCIAL COLLABORATIVE INITIATIVE.

14 Q. SO IT'S THE PROPRIETARY LENDING GROUP IS WHERE
15 YOU REMAINED UNTIL YOUR TERMINATION?

16 A. THAT'S CORRECT.

17 Q. AND APPROXIMATELY HOW LARGE A PORTFOLIO -- LET'S
18 STEP BACK. YOU ARE IN CHARGE OF THE ASSET MANAGING OF
19 THIS PROPRIETARY LENDING GROUP, CORRECT?

20 A. THAT'S CORRECT.

21 Q. HOW LARGE A PORTFOLIO ARE WE TALKING ABOUT?

22 A. IT WAS ON AVERAGE AROUND \$6 BILLION VERSUS IFG
23 HAD BEEN BETWEEN ONE AND-A-HALF AND \$2 BILLION SO IT WAS
24 SIGNIFICANT.

25 Q. APPROXIMATELY HOW MANY ASSETS WERE WE TALKING

1 ABOUT?

2 A. IT VARIED FROM TIME-TO-TIME BUT ANYWHERE FROM
3 300 TO 400 INDIVIDUAL LOANS AND IN EXCESS OF 500
4 SEPARATE PROPERTIES BECAUSE MANY OF OUR LOANS WERE ON
5 PORTFOLIOS SO FOR EXAMPLE, THERE WAS THE MCNEIL
6 PORTFOLIO WHICH WAS ACTUALLY 25 -- ONE LOAN BUT 25
7 PROPERTIES LOCATED IN TEXAS, ARKANSAS AND FLORIDA AND SO
8 THERE WERE A NUMBER OF EXAMPLES WHERE THERE WERE
9 PORTFOLIOS THAT CONSISTED OF MORE THAN ONE PROPERTY.

10 Q. AND HOW MANY PEOPLE DID YOU HAVE REPORTING TO
11 YOU?

12 A. INITIALLY THERE WERE PROBABLY IN EXCESS OF 25
13 BUT AFTER THINGS SETTLED DOWN, THERE WERE AROUND 20.

14 Q. SO YOU HAD ABOUT 20 PROFESSIONALS AND SOME WERE
15 BETWEEN 350 AND 400 LOANS?

16 A. THAT'S CORRECT.

17 Q. AND WHAT WAS YOUR RATIO OF ASSETS TO ASSET
18 MANAGERS?

19 A. OF LOANS TO ASSET MANAGERS?

20 Q. YES.

21 A. THAT VARIED. THERE ARE SOME PEOPLE WHO MAY HAVE
22 HAD AS LOW AS 20 LOANS. THERE WERE OTHER PEOPLE WHO HAD
23 BETWEEN 35, 40, SOMETIMES AS MANY AS 45 LOANS THAT THEY
24 WERE RESPONSIBLE FOR AND PARTLY BECAUSE SOME OF THE
25 LOANS WERE ON OUR BALANCE SHEET BUT JUST FOR A SHORT

1 PERIOD OF TIME, AND THEN THEY WOULD GET SECURITIZED AND
2 THEY WOULD BE BUNDLED UP AND PUT IN A SECURITIZATION AND
3 SOLD IN THE MARKET SO THAT MOVED THEM OFF OUR BALANCE
4 SHEET.

5 Q. WHEN YOU GOT THIS COMBINED ASSET MANAGEMENT
6 FUNCTION, WHY WAS THAT CONSIDERED A PROMOTION?

7 A. WELL, I MEAN ONE THING THAT I DIDN'T MENTION
8 THAT IS THAT PROBABLY IN -- THAT HAPPENED, THE MERGER OF
9 THE TWO UNITS HAPPENED IN 2004 BUT IN LATE 2001, EARLY
10 2002, I WAS PROMOTED TO SVP WHEN IT WAS STILL PART OF
11 IFG. THE MERGER OF THE TWO C-2 AND THE IFG PORTFOLIO
12 AND PLG THERE WAS NO TITLE CHANGE BUT FROM A SALARY
13 STANDPOINT AND FROM MORE IMPORTANTLY FROM A BONUS
14 STANDPOINT, I WAS COMPENSATED FOR THE INCREASED
15 RESPONSIBILITY.

16 Q. AND HOW DID YOU GET BONUSES?

17 A. BONUSES WERE PAID ON AN ANNUAL BASIS. THEY
18 GENERALLY WERE PAID -- QUITE FRANKLY, THEY GENERALLY
19 WERE DECIDED UPON IN JANUARY OF EVERY YEAR AND THEN THEY
20 WERE PAID OUT USING THE SECOND, THE FIRST PAY IN
21 FEBRUARY, USUALLY RIGHT BEFORE PRESIDENT'S WEEKEND YOU
22 KNEW WHAT YOUR BONUS WAS GOING TO BE.

23 Q. SO YOU HAD A BASE SALARY AND A BONUS AND WHAT
24 OTHER TYPES OF COMPENSATION WERE YOU GETTING?

25 A. THE BONUS, AT LEAST AS PART OF PLG AND AS PART

1 OF IFG HAD TWO COMPONENTS; YOU HAD A COMPONENT THAT WAS
2 PAID OUT IMMEDIATELY AND THEN YOU HAD A DEFERRED PORTION
3 OF YOUR BONUS. QUITE FRANKLY, MORE SENIOR PEOPLE
4 USUALLY GOT THE DEFERRED BONUS AND THAT WAS TO TIE YOUR
5 PERFORMANCE INTO, FUTURE PERFORMANCE IN THE PORTFOLIO SO
6 THE THOUGHT WAS, YOU KNOW, TO THE EXTENT THAT THERE WAS
7 SOME DETERIORATION IN THE PORTFOLIO THAT THAT WOULD
8 IMPACT YOU GETTING YOUR DEFERRED BONUS.

9 Q. WERE THERE CIRCUMSTANCES UNDER WHICH YOU COULD
10 LOSE THAT DEFERRED BONUS?

11 A. IN THEORY, I HAD ALWAYS BEEN TOLD IT WAS A
12 FUNCTION OF WHETHER OR NOT THERE WAS A PROBLEM WITH THE
13 PORTFOLIO SO, FOR EXAMPLE, IF THERE WAS SERIOUS
14 DETERIORATION IN THE PORTFOLIO, THEN YOU WOULD NOT GET
15 YOUR DEFERRED BONUS.

16 Q. AND DO YOU KNOW WHAT A CONTINGENT AWARD IS?

17 A. IT'S VERY SIMILAR TO THE DEFERRED COMPENSATION.

18 Q. AND TO WHAT EXTENT WERE YOU ENTITLED TO A
19 CONTINGENT AWARD?

20 A. AGAIN, THAT WAS A SUBJECTIVE PERCENTAGE AND IT
21 WAS USED TO DO A NUMBER OF THINGS, AGAIN, MAKE SURE YOU
22 WERE KIND OF KEEPING ON TOP OF WHAT IS HAPPENING WITH
23 THE PORTFOLIO BUT ALSO BECAUSE THEY WANTED PEOPLE TO
24 STAY AROUND. THEY DIDN'T WANT PEOPLE TO LEAVE THE
25 COMPANY.

1 Q. AND DID YOU GET CONTINGENT AWARDS DURING YOUR
2 TIME AT CAPMARK?

3 A. I DID.

4 Q. AND AS A RESULT OF YOUR TERMINATION, WHAT
5 HAPPENED TO THOSE CONTINGENT AWARDS?

6 A. I LOST THEM.

7 Q. AND DO YOU KNOW APPROXIMATELY HOW MUCH YOU LOST?

8 A. IT WAS 165,000 IN CONTINGENT AWARDS.

9 Q. SO IF YOU HAD \$165,000 WHICH WOULD BE LOST IF
10 YOU WERE TERMINATED FOR A CAUSE, IS THAT CORRECT?

11 A. THAT'S CORRECT OR IF YOU LEFT THE COMPANY
12 VOLUNTARILY WHICH IS WHY I WOULD NEVER LEAVE THE COMPANY
13 BECAUSE I WOULDN'T WANT TO LOSE THAT CONTINGENT AWARD.
14 I KIND OF EARMARKED IT TOWARDS MY CHILDREN'S COLLEGE
15 EDUCATION. EACH YEAR I WOULD PUT THAT LUMP SUM AWAY AND
16 THAT IS WHAT WE HAD BEEN PUTTING AWAY TO COVER COLLEGE.

17 Q. AND HOW DID YOU FIND OUT ABOUT THE SALE OF THE
18 COMPANY?

19 A. YOU KNOW EVERYONE, NOT EVERYONE BUT MOST PEOPLE
20 WHO READ THE PAPERS AND FOLLOW BUSINESS WERE AWARE THAT
21 THE CAR COMPANIES WERE HAVING PROBLEMS AND QUITE FRANKLY
22 YOU KNOW THROUGH THE EARLY PART OF THIS DECADE ANY OF
23 THE GMAC FINANCE COMPANIES WERE CONSIDERED CASH COWS.
24 WE ALWAYS CONTRIBUTED TO THE POSITIVE TO THE BOTTOM LINE
25 SO PROBABLY IN I WOULD SAY SOMETIME IN 2004, RUMOR

1 STARTED SPREADING THAT THEY MAY WANT TO SELL THE COMPANY
2 AS A WAY OF RAISING MONEY FOR GM. WE STARTED DOING THAT
3 BY STARTING TO SELL SOME OF OUR ASSETS, ESPECIALLY SOME
4 OF THE LOANS THAT WERE CONSIDERED VERY RISKY TYPE LOANS
5 BUT AGAIN, I BELIEVE IT WAS IN 2004, 2005 WE STARTED
6 MEETING WITH POTENTIAL INVESTOR GROUPS SO, FOR EXAMPLE,
7 I WOULD GET AN E-MAIL SAYING THERE WAS GOING TO BE A
8 MEETING WITH CADILLAC AND THAT WAS THE NICKNAME OR CODE
9 NAME FOR A GROUP OF INVESTORS, AND YOU WOULD HAVE TO GO
10 TO A CERTAIN LOCATION AND BE ABLE TO EXPLAIN -- I WOULD
11 HAVE TO EXPLAIN ABOUT OUR PORTFOLIO, KIND OF WHAT THE
12 PROFILE WAS, WHAT THE RISK RATINGS WERE, WHAT THE
13 TURNOVER WAS, AND TO GIVE THE INVESTORS A SENSE OF THE
14 QUALITY OF OUR ASSETS.

15 Q. LET'S TALK ABOUT IN MORE DETAIL. YOU MENTIONED
16 RISK RATING. CAN YOU DESCRIBE THE PROCESS, WHAT WOULD
17 YOUR GROUP NEED TO DO TO PUT TOGETHER THESE QUARTERLY
18 RISK RATINGS THAT WAS MENTIONED IN THE OPENING?

19 A. ONE OF THE THINGS THAT I HAD NOT EXPLAINED IN
20 TERMS OF MY TENURE AT GMAC WAS THAT I WORKED VERY
21 CLOSELY WITH OUR CREDIT DEPARTMENT. PROBABLY STARTING
22 IN 1999, I WORKED WITH THEM ON DEVELOPING A RISK RATING
23 PROCESS THAT WAS MORE REFLECTIVE OF THE REAL RISK
24 PROFILE.

25 AGAIN, IN THE EARLY PART OF THE DECADE

1 THEY WENT OUT AND USED CONSULTANTS TO HELP DEVELOP A
2 RISK RATING PROCESS THAT WAS BETTER REFLECTIVE OF WHAT
3 THE REAL LOSS EXPECTANCY WAS IN THE PORTFOLIO AND WOULD
4 BE ABLE TO CAPTURE KIND OF THE ECONOMIC CAPITAL NEEDED
5 TO COVER THIS POTENTIAL LOSS. SO BY 2004, 2005, WE WERE
6 WORKING WITH A GROUP CALLED REES AND THERE WAS AN
7 AFFILIATE OF CAPMARK CALLED REAL POINT THAT HELPED US
8 DEVELOP -- HELPED THE CREDIT DEPARTMENT DEVELOP A PRETTY
9 SOPHISTICATED MODEL TO DETERMINE RISK RATINGS. IT ENDED
10 UP THE FINAL RISK RATING WAS A 1 THROUGH 12 RATING BUT
11 TO GET TO THAT NUMBER, THERE WAS A HUGE SPREADSHEET THAT
12 WAS USED THAT HAD QUITE FRANKLY I THINK AT LEAST 60
13 DIFFERENT DATA POINTS AND IT WOULD START WITH WHERE A
14 PROPERTY WAS LOCATED, IT WOULD START WITH BASED ON ZIP
15 CODE, THE TYPE OF PROPERTY, AGAIN WHETHER IT WAS AN
16 APARTMENT BUILDING, AN OFFICE BUILDING, WHETHER IT WAS
17 RETAIL, SOME TYPE OF SHOPPING CENTER OR IF IT WAS AN
18 INDUSTRIAL BUILDING AND THEN YOU HAVE THOSE PRODUCT
19 TYPES THAT DON'T FIT INTO ANY OF THESE NEAT CATEGORIES
20 LIKE SELF STORAGE OR MEDICAL OFFICE BUILDINGS THAT YOU
21 HAD A DIFFERENT PROCESS THAT YOU WENT THROUGH. AT ANY
22 RATE, FROM THE VERY BEGINNING WHEN THE LOAN WAS
23 ORIGINATED THIS MODEL WAS KIND OF SET UP AND THEN ON A
24 QUARTERLY BASIS, BASED ON MARKET DATA THAT WAS PURCHASED
25 BUY -- FROM REES WHICH IS A REAL ESTATE INDUSTRY MARKET,

1 DOES MARKET STUDIES, THEY WOULD INPUT INFORMATION IN
2 TERMS OF WHAT'S GOING ON WITH THE PORTFOLIO. THEY WOULD
3 LOOK AT WHAT THE CURRENT VACANCY IS IN THE MARKET. IT
4 WOULD LOOK AT THE RENTS THAT ARE BEING CHARGED AT OUR
5 PROPERTY VERSUS THE RENTS IN THE MARKET TO SEE IF THERE
6 IS ANY UPSIDE FOR ANY OF THE VACANT SPACE. IT WOULD
7 LOOK AT TRENDS IN THE MARKET. QUITE FRANKLY, THIS MODEL
8 WOULD GO AND LOOK AT TEN YEARS' WORTH OF CASH FLOW SO TO
9 GET A BETTER SENSE GIVEN ANY LEASE TURNOVER OR ANY
10 POTENTIAL TRENDS IN THE MARKET WITH WHETHER OR NOT THERE
11 COULD BE ANY POTENTIAL LOSS IN THAT PARTICULAR LOAN. SO
12 THERE WERE QUANTITATIVE ASPECTS OF THIS MODEL AND THEN
13 THERE WAS QUALITATIVE ASPECTS OF THIS MODEL AND THE
14 QUALITATIVE ASPECTS INCLUDED KIND OF FIVE DIFFERENT
15 SEGMENTS. IT WOULD BE ANYTHING FROM FINANCIAL REPORTING
16 TO SPONSOR GUARANTOR ASSESSMENT. IT WOULD BE LOOKING AT
17 A LOAN'S PERFORMANCE RELATIVE TO UNDERWRITING. IT WOULD
18 LOOK AT THE QUALITY OF THE CASH FLOW AND IT WOULD LOOK
19 AT THE STRUCTURE TO SEE IF THERE WERE ANY STRUCTURAL
20 ASPECTS OF THE LOAN THAT WOULD IMPACT HOW IT'S RISK
21 RATED SO THAT AGAIN, THAT WAS KIND OF QUALITATIVE.

22 FINANCIAL STATEMENT REPORTING IS YOU KNOW
23 HOW OFTEN DO YOU GET THE OPERATING STATEMENT? WHAT IS
24 THE QUALITY OF RENT YOU WILL GET.

25 SPONSOR AND GUARANTOR ANALYSIS IS, IS

1 THIS A SPONSOR THAT HAS ACCESS TO THE CAPITAL MARKETS?
2 DO THEY HAVE ALTERNATIVE SOURCES FOR PURCHASE, FOR
3 OBTAINING LOANS? DO THEY HAVE A LOT OF OTHER PROPERTIES
4 THAT YOU HAVE UPCOMING MATURITIES ON? DO THEY HAVE A
5 LARGE AMOUNT OF LAND THAT IS A NONINCOME GENERATING
6 ASSET THAT IS GOING TO REQUIRE SOME OF THEIR CASH FLOW?
7 THE COMPONENT THAT LOOKS AT ACTUAL RESULTS VERSUS
8 UNDERWRITING MEANT THAT ANY ASSET MANAGER WOULD HAVE TO
9 GO IN, SPREAD THE FINANCIALS AND THEN COMPARE IT TO WHEN
10 WE DID THE UNDERWRITING TO SEE IF IT WAS IN LINE. I
11 SHOULD SAY THOUGH THAT THE CREDIT DEPARTMENT HAD ITS OWN
12 UNIQUE WAY OF DEFINING A REUNDERWRITING THING SO YOU
13 KNOW, FOR EXAMPLE, IF YOU TOOK THE ACTUAL OPERATING
14 STATEMENTS AND NO TAXES HAD BEEN PAID, WE WOULD HAVE TO
15 GO BACK AND RESEARCH TO FIND OUT HOW MUCH TAXES WILL BE
16 PAID SOME TIME LATER IN THE YEAR AND INPUT THAT NUMBER
17 INTO THE MODEL.

18 AGAIN, WE WOULD COMPARE YOUR DEBT SERVICE
19 COVERAGE WITH WHAT WE THOUGHT WAS GOING TO BE
20 UNDERWRITTEN.

21 THEY WOULD ALSO ASK US TO REVALUE EACH
22 PROPERTY SO KIND OF BASED ON EXISTING LEASES IN PLACE,
23 WE WOULD DO AN ANALYSIS OF WHAT THE NOI OR NET OPERATING
24 INCOME WOULD BE, APPLY A CAP RATE BASED ON INDUSTRY DATA
25 THAT WE WOULD GET FROM REES TO COME UP WITH A NEW VALUE

1 AND LOOK AT THE LOAN TO VALUE IF YOU COMPARED TO WHERE
2 WE THOUGHT IT WOULD BE FROM AN UNDERWRITING STANDPOINT.

3 Q. WHO WAS RESPONSIBLE FOR INPUTTING THE
4 QUALITATIVE ELEMENTS?

5 A. THE ASSET MANAGERS HAD BEEN.

6 Q. AND WHAT TYPE OF EXPERIENCE DID THEY NEED TO
7 HAVE IN ORDER TO PERFORM AN ACCURATE QUALITATIVE
8 ASSESSMENT?

9 A. WE TRIED TO HAVE PEOPLE DO THAT TYPE OF ANALYSIS
10 WHO HAD FAIRLY EXTENSIVE EXPERIENCE BECAUSE A LOT OF
11 TIMES REALLY IDENTIFYING THE RISK WAS NOT JUST BASED ON
12 WHAT YOU SAW ON PAPER, IT WAS ASKING YOUR BORROWER THE
13 RIGHT QUESTIONS. ASKING THEM -- IF YOU SEE A LEASE,
14 SUBSTANTIAL LEASE IN A BUILDING THAT IS COMING UP IN
15 ANOTHER SIX MONTHS, ASKING THEM OKAY, HAVE YOU HEARD
16 ABOUT WHETHER OR NOT THAT TENANT IS GOING TO RENEW HIS
17 LEASE OR HAVE THEY GIVEN YOU NOTICE ALREADY THAT THEY
18 ARE GOING TO BE VACATING? AND IF THEY HAVE, WHAT TYPE
19 OF PROSPECTS DO YOU HAVE TO MOVE INTO THAT SPACE OR TO
20 TAKE THAT SPACE SO WE TRY TO HAVE EXPERIENCED PEOPLE WHO
21 KNEW THE RIGHT QUESTIONS TO ASK.

22 Q. AND HOW DEMANDING WAS THE RISK RATING PROCESS
23 ITSELF?

24 A. IT WAS AN EXTREMELY RIGOROUS PROCESS. IT WAS
25 ONE OF THESE THINGS WHERE DURING THAT WEEK, TWO-WEEK OR

1 THREE-WEEK PERIOD, THAT IS ALL WE DID. YOU WORKED LATE,
2 YOU WORKED ON THE WEEKEND, YOU DID WHATEVER IT TOOK
3 BECAUSE THE CREDIT DEPARTMENT NEEDED TO RELY ON OUR
4 ASSESSMENT OF NOT JUST -- I MEAN THE QUALITATIVE ASPECTS
5 OF IT BUT ALSO WE HAD TO GO BACK AND LOOK AT THE
6 QUANTITATIVE TO MAKE SURE THAT THE DATA THAT WAS PUT IN
7 WAS ACCURATE BECAUSE SOMETIMES YOU WOULD FIND THESE
8 OUTLIERS THAT YOU COULD NOT EXPLAIN. YOU KNOW YOU WOULD
9 SEE A BUILDING THAT WAS LET'S SAY 90 PERCENT LEASED UP,
10 YOU HAD A GOOD LOAN TO VALUE YET YOU ENDED UP GETTING A
11 DETRIMENTAL NUMBER FROM A RISK RATING STANDPOINT AND
12 THAT IS BECAUSE THE MODEL SAID THAT THERE IS NO -- THERE
13 IS NOT A LOT OF ROOM FOR NEW PEOPLE COMING INTO THAT
14 MARKET, AND SO THE FUTURE POTENTIAL COULD BE BAD IN
15 TERMS OF LEASING UP THE BUILDING SO IT WAS NOT ALWAYS
16 NECESSARILY INTUITIVE. THERE WAS NOT A LOGICAL PROCESS
17 SO IT WAS -- WHAT I'M TRYING TO SAY, IT RESULTED --
18 ADMIT THAT WE HAD TO HAVE A LOT OF INTERACTION WITH THE
19 CREDIT DEPARTMENT WHICH I HAD BEEN DOING FOR YOU KNOW,
20 FOR 7 OR 8 YEARS THAT I HAD BEEN WORKING WITH THEM.

21 Q. AND WHAT INDIVIDUALS IN PARTICULAR WOULD YOU
22 WORK WITH TOGETHER IN THE CREDIT DEPARTMENT TO GET YOU
23 ACROSS THE FINISH LINE?

24 A. THERE IS A -- STARTING WITH AT LEAST AS OF THE
25 FIRST QUARTER OF 2006, IT WAS JOE HOHENLEITNER WHO WAS

1 OUR MAIN SENIOR CREDIT OFFICER. IT WAS BETH COADY
2 BECAUSE SHE WAS KIND OF A LOW-LEVEL PERSON ON THE CREDIT
3 SIDE WHO WAS RESPONSIBLE FOR A LOT OF THE TECHNICAL
4 ASPECTS THAT WERE INCLUDED IN THE MODEL AND THEN THERE
5 WAS A PERSON BY THE NAME OF MAUREEN MENARDE WHO IS THEIR
6 CHIEF RISK OFFICER WHO WAS THE PERSON WHO HAD THE DIRECT
7 RESPONSIBILITY FOR THE MODEL ITSELF SO AGAIN, JOE HOE
8 HAD GENERAL RESPONSIBILITIES FOR CREDIT FOR OUR
9 PORTFOLIO. MAUREEN WAS MORE OF THE RISK RATING PERSON
10 THROUGHOUT THE COMPANY AND BETH WAS A PERSON WHO FROM A
11 TECHNICAL SIDE HAD GOOD KNOWLEDGE OF WHAT THE
12 INTRICACIES OF THE MODEL INCLUDED.

13 Q. HOW LONG WOULD YOU INTERACT WITH, YOU REFERRED
14 TO JOE HOE. TO BE CLEAR TO THE JURY, THAT IS MR.
15 HOHENLEITNER?

16 A. YES. THAT IS HIS NICKNAME.

17 Q. HOW OFTEN WOULD YOU INTERACT WITH MR.
18 HOHENLEITNER, MISS COADY AND MISS MENARDE DURING THE
19 RISK RATING PROCESS?

20 A. VERY FREQUENTLY, EITHER THROUGH E-MAILS OR
21 DIRECT MEETINGS. I HAD MAINTAINED AN OFFICE BOTH IN NEW
22 YORK AS WELL AS IN HORSHAM SO IN HORSHAM THE CREDIT
23 OFFICERS WERE LOCATED, GOSH, NOT THAT FAR FROM WHERE MY
24 OFFICE WAS, SO IT WAS VERY EASY TO GO IN AND OUT OR SEE
25 THEM IN THE CAFETERIA.

1 IN NEW YORK, MY OFFICE WAS I THINK 4 OR 5
2 DOORS DOWN FROM JOE HOE'S SO WHEN I WAS IN NEW YORK 1 TO
3 2 DAYS A WEEK, I WOULD BE MEETING WITH HIM ON A FAIRLY
4 REGULAR BASIS.

5 Q. WE GOT A LITTLE BIT AWAY FROM THE PURCHASE OF
6 THE COMPANY AND THE CHANGE TO CAPMARK. AT SOME POINT,
7 DID YOU COME TO LEARN THAT YOUR JOB WOULD BE AFFECTED AS
8 THE RESULT OF THE SELL OF THE COMPANY?

9 A. YES, PROBABLY BY THE THIRD QUARTER OR FOURTH
10 QUARTER OF 2005, AN ANNOUNCEMENT WAS MADE THAT WE
11 FINALLY HAD FOUND AN INVESTOR BECAUSE THERE WERE A
12 NUMBER OF NEAR MARRIAGES, LET'S SAY, WHERE WE THOUGHT WE
13 HAD INVESTORS WHO WERE GOING TO BE BUYING US AND THE
14 DEALS FELL APART BUT WE HAD HEARD THAT A GROUP OF
15 INVESTORS THAT INCLUDED GOLDMAN SACHS, KKR AND ANOTHER
16 ENTITY WAS GOING TO BE BUYING ABOUT 78 PERCENT OF GMAC
17 COMMERCIAL MORTGAGE.

18 Q. AND TO WHAT EXTENT DID THAT PRESENT ANY
19 OPPORTUNITIES TO YOU?

20 A. WELL, I THOUGHT THAT THAT WOULD BE GREAT BECAUSE
21 THERE WERE KIND OF RUMORS FLYING THAT CERTAIN MANAGERS
22 MIGHT BE GIVEN AN OPPORTUNITY TO BUY INTO THE COMPANY.
23 BUY INTO -- WHEN THE INVESTORS BUY THE COMPANY, THEY
24 WOULD ALSO BE GIVING SENIOR MANAGEMENT AN OPPORTUNITY TO
25 BUY INTO THE COMPANY.

1 Q. AND WERE YOU GIVEN THAT OPPORTUNITY?

2 A. I WAS. IN THE EARLY PART OF FEBRUARY OF 2006, I
3 GOT AN E-MAIL, IT WAS JUST FROM GMAC EQUITY INVESTORS
4 TELLING ME THAT I WAS CONSIDERED A KEY EMPLOYEE AND
5 THERE WAS ANOTHER TERM BUT I CAN'T REMEMBER. AT ANY
6 RATE I WAS TOLD THAT I WOULD BE GIVEN THE OPPORTUNITY TO
7 PURCHASE UP TO I THINK 40,000 SHARES OF STOCK IN THE NEW
8 COMPANY.

9 Q. AND WHAT DID YOU DO TO DECIDE WHETHER TO MAKE
10 THAT INVESTMENT?

11 A. I HAD NEVER MADE THAT LARGE OF AN INVESTMENT IN
12 ANYTHING SO -- A SINGLE INVESTMENT SO I LOOKED TO TRY TO
13 IDENTIFY SOMEONE TO HELP ME EVALUATE THE PROS AND CONS
14 OF MAKING THAT TYPE OF INVESTMENT.

15 I SHOULD ALSO SAY THAT WHEN WE GOT THIS
16 NOTICE IT ALSO COINCIDED WITH WHEN WE WERE GIVEN OUR
17 BONUS, WHEN THEY GAVE US THE BONUS AWARDS AND IT TURNED
18 OUT THAT I THINK IT WAS ALMOST THE SAME DAY THAT THEY
19 GAVE US OUR BONUS THAT WE ACTUALLY RECEIVED THE CASH.
20 THEY ALSO TOLD US HOW MUCH WE COULD INVEST IN THE NEW
21 COMPANY SO IT WASN'T -- SO I NEEDED TO FIGURE OUT WHAT
22 TO DO.

23 Q. AND WHAT WAS YOUR BONUS AT THAT TIME, DO YOU
24 RECALL?

25 A. I THINK THE PAYOUT WAS 425,000 AND THEN THE

1 CONTINGENT AWARD OR THE DEFERRED PART WAS ANOTHER 75,000
2 AND THE WAY THE CONTINGENT WORKS IS THAT THAT IS PAID ON
3 THE SECOND OR THIRD ANNIVERSARY OF WHEN IT IS ANNOUNCED.

4 Q. WHAT -- DID YOU IN FACT MAKE AN INVESTMENT IN
5 THE COMPANY?

6 A. I DID. I MADE A COUPLE OF PHONE CALLS AND I
7 FOUND A CONSULTANT WHOSE NAME WAS ROBERT JONES. HE HAS,
8 HE IS AN ATTORNEY, CPA AND WHAT HE DOES, HE HAD WORKED
9 FOR I THINK IT IS CALLED AON CONSULTING BUT HE ADVISED
10 COMPANIES AND INDIVIDUALS ON EMPLOYEE COMPENSATION AND
11 BENEFITS, AND I GOT HIS NAME, I CALLED HIM AND HE SAID,
12 HE WOULD BE HAPPY TO WORK WITH ME ON FIGURING OUT, YOU
13 KNOW, WHETHER IT MADE SENSE TO MAKE THIS INVESTMENT.

14 Q. AS A RESULT OF YOUR CONVERSATIONS WITH
15 MR. JONES, DID YOU IN FACT MAKE AN INVESTMENT?

16 A. I DID. I INVESTED 140,000 IN THE COMPANY, AND I
17 SHOULD SAY THAT IT WAS 140,000 CASH TO PURCHASE STOCK,
18 BUT BY MAKING THAT INVESTMENT I ALSO WAS GIVEN -- I
19 THINK THEY ARE CALLED STOCK OPTIONS, WHICH MEANT THAT
20 ONCE THESE OPTIONS GOT VESTED OVER A FIVE-YEAR PERIOD,
21 THEN YOU COULD POTENTIALLY EXERCISE THOSE OPTIONS AND
22 GET A RETURN ON YOUR INVESTMENT.

23 Q. AND HOW DID \$140,000 INVESTMENT COMPARE TO ANY
24 OTHER SINGLE INVESTMENT THAT YOU HAD MADE IN THE PAST?

25 A. ASIDE FROM PUTTING \$5,000 IN MY IRA ACCOUNT, I

1 HAD NEVER MADE AN INVESTMENT ANYWHERE NEAR THAT LARGE,
2 SO THAT IS WHY I CONSULTED BOB JONES AND WE WENT THROUGH
3 KIND OF THE PROS AND CONS OF MAKING THAT KIND OF
4 INVESTMENT.

5 THE COURT: EXCUSE ME FOR A MOMENT.

6 (OFF THE RECORD.)

7 THE COURT: YOU MAY PROCEED.

8 BY MR. SALMANSON:

9 Q. HAD YOU FINISHED YOUR ANSWER, MISS SPEIGHT?

10 A. I AM SORRY. I GOT DISTRACTED. I WAS NOT SURE.
11 WHAT WAS THE QUESTION?

12 THE COURT: READ BACK THE ANSWER.

13 (REQUESTED PORTION READ BACK.)

14 BY MR. SALMANSON:

15 Q. AND WHY WERE YOU WILLING TO MAKE SUCH A LARGE
16 INVESTMENT?

17 A. A, BECAUSE I LOVED MY JOB. I LOVED THE PEOPLE
18 THAT I WORKED WITH. I LOVED THE PEOPLE THAT I WORKED
19 FOR. I WORKED FOR THE COMPANY AGAIN AT THAT POINT FOR
20 ABOUT SEVEN -- ALMOST SEVEN AND-A-HALF YEARS. I WAS
21 GIVEN A LOT OF AUTHORITY, AND I GREW FROM A CAREER
22 STANDPOINT, FROM A PROFESSIONAL STANDPOINT TREMENDOUSLY
23 AND TO BE ABLE TO SAY THAT I COULD BE A PART OF THIS
24 GROWTH, BECAUSE THE THOUGHT WAS THAT YOU MAKE THIS
25 INVESTMENT AND THEN OVER A FIVE-YEAR PERIOD OF TIME, YOU

1 GROW THE COMPANY IN SUCH A WAY THAT YOU TAKE IT PUBLIC.
2 YOU KNOW, I NEVER -- I DIDN'T THINK I WOULD EVER START
3 MY OWN BUSINESS. THIS WAS ABOUT AS CLOSE AS I WAS GOING
4 TO GET TO THAT.

5 Q. WHEN DID YOU APPROXIMATELY MAKE THE ACTUAL
6 COMMITMENT FOR THE \$140,000?

7 A. THEY ASKED FOR A PRETTY QUICK TURNAROUND, SO
8 THEY GAVE US MATERIALS, YOU KNOW, THE PERSPECTIVE AND
9 SOME OTHER THINGS, WHICH I E-MAILED TO BOB. WE WORKED
10 TOGETHER OVER THE WEEKEND, SENDING E-MAILS BACK AND
11 FORTH, AND I MADE THE INVESTMENT PROBABLY ABOUT A WEEK
12 AFTER THEY GAVE ME THE OPPORTUNITY.

13 Q. AND HOW DID YOU ACTUALLY DO THAT?

14 A. THERE WERE TWO THINGS I HAD TO DO. I HAD TO
15 MAKE ARRANGEMENTS TO WIRE MONEY INTO THE COMPANY, AND
16 THEN I NEEDED TO SIGN A DOCUMENT SAYING THAT I'M MAKING
17 THIS INVESTMENT AND I HANDED THAT DOCUMENT TO JON FOGLE,
18 WHO WAS IN HR, ONE OF THE SVP'S IN THE HUMAN RESOURCES
19 AREA.

20 Q. NOW, AFTER YOU MADE THE INVESTMENT, DID ANY OF
21 YOUR JOB RESPONSIBILITIES CHANGE?

22 A. THAT -- AGAIN, BECAUSE WE HAD A GROUP OF NEW --
23 OF INVESTORS COMING IN, THAT SALE CLOSED TOWARDS THE END
24 OF MARCH OF 2006. YOU KNOW, TO MAKE THIS SUCCESSFUL HE
25 KNEW -- I KNEW -- EVERYONE KNEW THAT WE HAD TO FIGURE

1 OUT A WAY TO CUT EXPENSES.

2 AS I HAD ALLUDED TO BEFORE, SOME OF WHAT
3 THE ASSET MANAGEMENT FUNCTION -- SOME OF THOSE FUNCTIONS
4 PERFORMED WERE ALSO CLOSE TO WHAT WAS BEING PERFORMED ON
5 THE SERVICING AREA, SO THERE HAD BEEN RUMORS THAT THE
6 ASSET MANAGEMENT -- MY ASSET MANAGEMENT TEAM WOULD BE
7 MOVED INTO SERVICING, AND THAT IS ONE OF THE THINGS THAT
8 HAPPENED AS A RESULT OF THE ACQUISITION.

9 Q. AND HOW DID YOU FIND OUT THAT THAT WAS GOING TO
10 HAPPEN?

11 A. I MET WITH ONE OF MY MANAGERS, MARLA BERGER, THE
12 LAST WEDNESDAY IN MARCH OF 2006, AND SHE TOLD ME THAT
13 THERE WAS THIS EFFICIENCY COMMITTEE, IS I THINK WHAT SHE
14 DESCRIBED IT, AND THAT COMMITTEE, AMONGST OTHER THINGS,
15 DECIDED THAT THIS COULD BE ONE WAY OF SAVING MONEY FOR
16 THE COMPANY.

17 Q. AND WHAT DID SHE TELL YOU THAT SHE WANTED YOU TO
18 DO?

19 A. SHE TOLD ME THAT I SHOULD SET UP AN APPOINTMENT
20 WITH MIKE LIPSON, AND HE WOULD BE ABLE TO GIVE ME A
21 BETTER IDEA OF WHAT THE TRANSITION -- WHAT FORM THE
22 TRANSITION WOULD TAKE.

23 Q. AND AT THAT TIME, WERE YOU GIVEN A JOB
24 DESCRIPTION?

25 A. NO.

1 Q. WERE YOU TOLD ANY MORE DETAILS, OTHER THAN YOU
2 SHOULD GO TALK TO MR. LIPSON ABOUT WHAT THE JOB
3 DESCRIPTION WOULD BE?

4 A. THIS IS WHAT MARLA SAID TO ME. MARLA SAID, SHE
5 SAID, WANDA -- SHE SAID, I DON'T -- I DON'T KNOW HOW YOU
6 ARE GOING TO REACT TO THIS, BUT, YOU KNOW, SERVICING MAY
7 NOT SEEM LIKE THE BEST PLACE TO BE, BUT DON'T WORRY
8 ABOUT YOUR COMPENSATION. WE WILL FIGURE OUT A WAY TO
9 TAKE CARE OF YOU.

10 AND SHE SAID, WANDA, YOU CAN GO OVER AND
11 YOU CAN BE A STAR OVER THERE. SHE CALLED ME -- YOU CAN
12 BE THE QUEEN OF SERVICING IF YOU GO TO SERVICING AND
13 HELP THEM PERFORM A HIGHER LEVEL OF SERVICING THAN WHAT
14 THEY WERE PROVIDING -- CURRENTLY PROVIDING.

15 Q. AND TO WHAT EXTENT DID YOU AGREE OR DISAGREE
16 WITH HER ASSESSMENT?

17 A. I TOOK HER ON FACE VALUE. I WAS NOT SURE KIND
18 OF WHAT TO EXPECT. SO I CALLED MIKE.

19 Q. AND HAD YOU EVER HAD PROFESSIONAL INTERACTIONS
20 WITH MR. LIPSON BEFORE?

21 A. VERY LIMITED. I CAN'T THINK OF -- I KNEW WHO HE
22 WAS. I WAS NOT SURE IF HE KNEW WHO I WAS.

23 Q. OKAY. AND DID YOU FOLLOW UP ON MISS BERGER'S
24 SUGGESTION THAT YOU CALL MR. LIPSON?

25 A. I DID. AGAIN, I WAS IN NEW YORK WHEN I MET WITH

1 MARLA. SHE IS BASED IN NEW YORK. BUT WHEN I GOT BACK
2 TO HORSHAM, I SENT HIM AN E-MAIL AND SCHEDULED A MEETING
3 FOR THAT FRIDAY, TWO DAYS LATER, THE NEXT DAY.

4 Q. NOW, YOU MENTIONED THAT MISS BERGER SAID
5 SOMETHING ABOUT YOUR COMPENSATION.

6 TO WHAT EXTENT DID YOU HAVE CONCERNS
7 ABOUT YOUR COMPENSATION IF YOU MOVED OVER?

8 A. AGAIN, I HAD JUST MADE A \$140,000 INVESTMENT IN
9 THE COMPANY. THERE HAD BEEN RUMORS GOING AROUND OVERALL
10 ONCE THE COMPANY GOT SOLD, THAT OVERALL EVERYONE'S
11 COMPENSATION WAS GOING TO CHANGE. THE WAY I LOOKED AT
12 MY EMPLOYMENT AND MY INVESTMENT AT CAPMARK WAS THAT I
13 WAS IN IT FOR THE LONG TERM.

14 I REALIZED THAT ON THE SHORT-TERM BASIS,
15 I MIGHT NOT BE MAKING WHAT I HAD MADE PREVIOUSLY, BUT BY
16 MAKING THIS INVESTMENT AND HAVING THE STOCK OPTIONS,
17 THAT FIVE YEARS DOWN THE ROAD I WOULD HAVE THE ABILITY
18 TO REALLY KIND OF GET THE BIG BANG.

19 Q. DID YOU HAVE ANY UNDERSTANDING OF HOW THE
20 SERVICING DEPARTMENT WAS COMPENSATED, AS OPPOSED TO HOW
21 THE PLG GROUP HAD BEEN COMPENSATED?

22 A. PLG HAD A REAL DISCRETIONARY BONUS PLAN VERSUS
23 SERVICING. THEIR BONUS PLAN WAS BASED ON -- I THINK IT
24 IS CALLED PERSONAL SHARES, AND I THINK THERE WAS REALLY
25 A FINITE WAY THE PERSONAL SHARES WORKED; WHEREAS, IF YOU

1 HAVE X NUMBER OF PERSONAL SHARES, YOU AUTOMATICALLY GOT
2 X IN JANUARY OF EVERY YEAR.

3 Q. NOW, WE ARE BACK TO YOU CALLED MR. LIPSON, AND
4 DID YOU, IN FACT, MEET WITH HIM?

5 A. I DID. I WENT TO HIS OFFICE. AND I SHOULD TELL
6 YOU THAT ALTHOUGH WE BOTH WORKED IN HORSHAM, MIKE IN
7 SERVICING -- MIKE LIPSON IN SERVICING WERE ON THE WELSH
8 ROAD BUILDING, AND I WORKED IN THE WHITMORE BUILDING.
9 IT WAS ABOUT A MILE AWAY TO GET FROM ONE BUILDING TO THE
10 NEXT. YOU HAD TO DRIVE.

11 Q. WAS MR. LIPSON SOMEBODY THAT YOU WOULD SEE ON A
12 DAY-TO-DAY BASIS, GENERALLY?

13 A. DEFINITELY NOT ON A DAY-TO-DAY BASIS.

14 Q. AND HOW LONG DID THE MEETING LAST?

15 A. NOT VERY LONG. I CAN'T REMEMBER, YOU KNOW. I
16 WOULD SAY MAYBE 15 OR 20 MINUTES. HE SAID THAT HE
17 WELCOMED MY JOINING HIS GROUP, AND THAT -- HE EXPLAINED
18 KIND OF THE OVERALL PHILOSOPHY OF HOW THE COMPANY WAS
19 CHANGING, AND THIS IS VERY HIGH LEVEL. HE SAID THERE IS
20 GOING TO BE THE SERVICING AREA, THEN THERE IS GOING TO
21 BE THE INVESTMENT AREA AND IT'S RUN BY SOMEONE ELSE,
22 THEN THERE WAS GOING TO BE THE, I THINK, LENDING AREA,
23 CREDIT AREA THAT WAS BEING RUN BY SOMEONE ELSE.

24 Q. DID THAT STRUCTURE MAKE SENSE TO YOU?

25 A. YEAH. THERE WAS NO REASON TO THINK IT WOULDN'T.

1 Q. OKAY. AND DID YOU TALK ABOUT ANYTHING ELSE IN
2 THAT MEETING?

3 A. HE SAID THAT I SHOULD PLAN A MEETING WITH
4 MICHAEL CARP, WHO IS BASED IN DALLAS, TEXAS, AND MARK
5 MCCOOL WHO WAS IN HORSHAM. HE SAID I SHOULD WORK WITH
6 THEM. THE WAY HE REFERRED TO IT WAS SOME KIND OF MEAT
7 ON THE BONES OR SOMETHING TO THAT EFFECT.

8 Q. AND WHAT DID YOU UNDERSTAND HIM TO MEAN BY THAT
9 EXPRESSION?

10 A. THAT I WOULD WORK THROUGH THE DETAILS WITH
11 MICHAEL CARP AND MARK MCCOOL.

12 Q. AT THAT POINT, DID YOU KNOW TO WHOM YOU WOULD
13 ULTIMATELY BE REPORTING?

14 A. I DIDN'T. IN FACT, THAT WAS ONE OF THE THINGS
15 THAT MIKE LIPSON ALLUDED TO.

16 HE SAID, WE ARE NOT SURE HOW THIS IS ALL
17 GOING TO WORK OUT YET, SO WHEN YOU MEET -- I WANT YOU TO
18 MEET WITH BOTH OF THEM ALL THE TIME BECAUSE UNTIL WE
19 FIGURE OUT HOW THIS IS GOING TO WORK, IT'S BETTER IF
20 BOTH OF THEM HEAR KIND OF WHAT YOU DO AND HOW YOU
21 CURRENTLY ARE DOING YOUR ASSET MANAGEMENT FUNCTION, AND
22 THAT WAY THEY CAN DECIDE HOW TO STRUCTURE THE GROUP.

23 Q. AND WHAT WAS YOUR UNDERSTANDING OF THE
24 DIFFERENCES BETWEEN WHAT MR. CARP WAS DOING AND WHAT
25 MR. MCCOOL WAS DOING?

1 A. SURE. MICHAEL CARP HEADED UP SOMETHING CALLED
2 RES, REAL ESTATE SOLUTIONS, AND THAT WAS THE AREA THAT
3 HANDLED THE DISTRESS LOANS. IT ALSO USED TO BE REFERRED
4 TO AS SPECIAL SERVICING. BUT AT ANY RATE WHAT THEY
5 OFFERED, BOTH FOR GMAC OR CAPMARK, AS WELL AS TO
6 THIRD-PARTY ENTITIES, IS MANAGING PORTFOLIO OF LOANS
7 THAT ARE NONPERFORMING. THEY ARE LOANS THAT ARE EITHER
8 VACANT, OR THEY ARE LOANS ON PROPERTIES THAT HAVE NOT
9 PERFORMED THAT ARE -- IN THE RISK RATINGS THEY ARE
10 SPECIAL MENTION, A WATCH LIST OF LOANS THAT REQUIRE
11 VERY, VERY HEAVY DETAILED SERVICING OF THE PORTFOLIO.
12 THEY ALSO HANDLED OREO -- OR IF WE HAD TO FORECLOSE ON A
13 LOAN AND TAKE BACK THE REAL ESTATE, THEY WOULD HANDLE
14 THOSE TYPES OF PROPERTIES.

15 Q. WHAT ABOUT MR. MCCOOL, WHAT KIND OF ASSETS WAS
16 HE HANDLING?

17 A. MR. MCCOOL HANDLED THE -- THE PERFORMING LOANS
18 FOR THIRD PARTIES. THOSE WOULD HAVE BEEN LIFE INSURANCE
19 COMPANIES OR OTHER ENTITIES THAT HAD PORTFOLIO LOANS
20 THAT NEEDED TO BE SERVICED, SO THEY WERE KIND OF THE
21 VANILLA LOANS, LOANS WHERE ALL THEY DID WAS COLLECT
22 PRINCIPAL AND INTEREST, THEY MADE SURE TAXES WERE PAID,
23 INSURANCE WAS PAID. WE DID SERVICING FOR, I THINK,
24 FANNIE MAE AND FREDDY, WHERE WE COLLECTED FINANCIAL
25 STATEMENTS ON AN ANNUAL BASIS, SPREAD THEM BASED ON A

1 CRITERIA SET BY THE CMSA, AND GIVE REPORTS TO THE THIRD
2 PARTY.

3 Q. AND, TO YOUR KNOWLEDGE, TO WHAT EXTENT DID
4 INDIVIDUALS UNDER MR. CARP'S BAILIWICK PERFORM RISK
5 RATINGS?

6 A. AGAIN, MOST OF THEIR LOANS -- LET ME BACK UP.
7 THEIR LOANS THAT WERE DONE FOR THIRD PARTIES, THEY DID
8 NOT PERFORM RISK RATING FOR THOSE THIRD PARTIES. BY THE
9 NATURE OF THEIR LOANS, BECAUSE THEY WERE DISTRESSED
10 PORTFOLIOS. THOSE WERE LOANS THAT WERE ALREADY RISK
11 RATED, WATCHED LIST, OR SPECIAL MENTION OR OREO, BECAUSE
12 THOSE WERE AUTOMATICALLY HIGHER RISK RATED LOANS. OREO,
13 OTHER REAL ESTATE OWNED, O-R-E-O, OREO.

14 Q. WHO WOULD BE RESPONSIBLE OR RISK RATING THE
15 LOANS THAT WERE UNDER MR. CARP'S BAILIWICK?

16 A. SOMETIMES SOME OF THEIR STAFF WOULD DO THAT.
17 QUITE FRANKLY, LET ME RELATE IT TO LOANS THAT THEY --
18 SPECIAL SERVICING HAD HANDLED FOR THE REAL ESTATE AREA.
19 WE WOULD HAVE OUR ASSET MANAGERS DO SOME OF THOSE RISK
20 RATINGS IN CONJUNCTION WITH THEIR STAFF.

21 Q. AND WHAT ABOUT MR. MCCOOL, PRIOR TO YOUR
22 ARRIVAL, TO WHAT EXTENT -

23 A. YEAH.

24 Q. -- DID HE HAVE PEOPLE UNDER HIS BAILIWICK DOING
25 RISK RATINGS?

1 A. TO THE BEST OF MY KNOWLEDGE, THEY DID NOT DO
2 RISK RATINGS AT ALL. AGAIN, THEY WERE NOT DOING -- THEY
3 WERE NOT OVERSEEING LOANS ON OUR BALANCE SHEET. THOSE
4 WERE THIRD-PARTY ENTITIES, SO THERE WAS NO RISK RATING
5 DONE OF THOSE LOANS.

6 Q. AND SO, TO YOUR KNOWLEDGE, MR. MCCOOL HAD NOT
7 HAD EXPERIENCE WITH THE RISK RATING PROCESS PRIOR TO
8 YOUR ARRIVAL?

9 A. THAT'S CORRECT.

10 Q. NOW, DID YOU DISCUSS, WITH EITHER MISS BERGER OR
11 MR. LIPSON IN THESE INITIAL MEETINGS, YOUR STAFFING?

12 A. I HAD. IT STARTED WITH -- ACTUALLY STARTING
13 WITH MARLA. WHAT HAD HAPPENED WAS, IN FEBRUARY WE HAD
14 AN ASSET MANAGER WHO HAD BEEN A PART-TIME ASSET MANAGER,
15 LISA SPAZIANO. LISA, WORKED PART TIME.

16 WHEN SHE GOT HER BONUS AND GOT HER SALARY
17 ADJUSTMENT, SHE CAME BACK TO US AND SAID, YOU KNOW, I
18 FEEL LIKE I SHOULD BE MAKING MORE MONEY, EVEN THOUGH I'M
19 JUST PART TIME, I WORK MORE HOURS. I WORK MORE THAN
20 JUST THE 20 HOURS A WEEK. I FEEL LIKE I SHOULD BE
21 BETTER COMPENSATED.

22 WHEN I WENT TO TALK TO MARLA BERGER AND
23 LARRY KLIGMAN ABOUT THAT, THEY SAID, WELL, YOU KNOW, SHE
24 DEFINITELY IS A CONTRIBUTOR. BUT, WANDA, WHY DON'T YOU
25 THINK ABOUT, INSTEAD OF JUST HIRING -- HAVING TO DEAL

1 WITH HER PART-TIME ISSUE, BECAUSE SOMETIMES THAT WAS AN
2 ISSUE, THEY SAID WHY DON'T YOU HIRE SOMEONE FULL TIME,
3 OFFER HER THE ABILITY TO COME AND WORK FOR US FULL TIME.
4 IF SHE DOESN'T WANT TO DO THAT, THEN GO AND HIRE SOMEONE
5 ON A FULL-TIME BASIS.

6 SO WHEN I WENT BACK TO LISA AND ASKED HER
7 IF SHE WOULD BE WILLING TO WORK FULL TIME, SHE SAID NO.
8 AND SO I SAID, WELL, I THINK WE WANT SOMEONE FULL TIME.
9 THIS PART-TIME ARRANGEMENT, YOU KNOW, AS LONG AS YOU
10 WERE WILLING TO DO IT AT THAT SALARY, IT WOULD HAVE BEEN
11 OKAY, BUT WE REALLY DO NEED SOMEONE FULL TIME. SO SHE
12 ENDED UP LEAVING, AND I STARTED LOOKING FOR A FULL-TIME
13 PERSON.

14 AT THE SAME TIME, ONE OF OUR OTHER ASSET
15 MANAGERS, A GUY BY THE NAME OF GAGAN SURI -- GAGAN,
16 G-A-G-A-N, SURI, S-U-R-I, SAID THAT -- CAME TO ME AND
17 SAID, WANDA, HE SAID, I REALLY WANT TO DO UNDERWRITING.
18 I'M TIRED OF DOING -- NOT TIRED, BUT I WOULD LIKE TO DO
19 SOMETHING THAT IS MORE EXCITING THAN UNDERWRITING, AND I
20 WANT TO MAKE MORE MONEY. AND HE FELT THAT THE
21 UNDERWRITING SIDE OF THE BUSINESS WOULD ALLOW HIM TO
22 MAKE MORE MONEY THAN THE ASSET MANAGEMENT SIDE OF THE
23 BUSINESS.

24 Q. AND WAS MR. SURI MANAGING A CERTAIN SET OF
25 LOANS?

1 A. HE WAS. HE WAS MANAGING THE CANADIAN LOANS
2 BECAUSE, IN FACT, GAGAN HAD BEEN HIRED IN OUR -- I THINK
3 IT WAS THE TORONTO OFFICE. WE MOVED HIM TO NEW YORK,
4 AND SO HE WAS DOING -- CONTINUED TO DO THE ASSET MANAGER
5 OF THE CANADIAN LOANS, AND THEN STARTED PICKING UP SOME
6 OF OUR U.S. LOANS ESSENTIALLY. SO HE HAD A FAIRLY LARGE
7 PORTFOLIO. I THINK HE HAD CLOSE TO 40 LOANS THAT HE
8 MANAGED, PROBABLY TWO-THIRDS OF THEM WERE CANADIAN AND
9 THE OTHER THIRD WERE U.S. LOANS.

10 Q. AND WERE YOU ABLE TO HIRE A REPLACEMENT FOR LISA
11 SPAZIANO?

12 A. I WAS. I HIRED A GUY BY THE NAME OF PAUL
13 EDWARDS. HE WAS A FULL-TIME INDIVIDUAL.

14 Q. AND HOW ABOUT MR. SURI?

15 A. I WAS IN THE PROCESS OF HIRING SOMEONE TO
16 REPLACE GAGAN. THERE WAS AN EXCELLENT CANDIDATE WHO
17 WORKED FOR TISHMAN SPEYER -- I THINK IS THE NAME OF THE
18 OUTFIT -- REAL ESTATE OUTFIT BASED IN NEW YORK CITY.
19 SHE HAD FABULOUS ASSET MANAGEMENT EXPERIENCE. AND WHEN
20 I ASKED MARLA, WHEN I MET WITH HER, WHETHER I COULD
21 PROCEED WITH HIRING THIS PERSON, SHE SAID I SHOULD TALK
22 TO MIKE LIPSON.

23 Q. AND DID YOU TALK TO MIKE LIPSON ABOUT HIRING A
24 REPLACEMENT FOR MR. SURI?

25 A. I DID. I SHARED AT LEAST THE PROFILE OF THE

1 PERSON. I SAID, I THINK THAT SHE COULD CONTRIBUTE A LOT
2 TO OUR ORGANIZATION.

3 AND HE SAID, WELL, WANDA, THE PERSON
4 SOUNDS GREAT, BUT, YOU KNOW, I THINK -- WHY DON'T YOU
5 TALK TO TONY LAUERMAN, BECAUSE I THINK THAT HE MIGHT
6 HAVE SOME RESOURCES THAT YOU CAN TAP INTO.

7 Q. AND WHO IS MR. LAUERMAN?

8 A. TONY IS AN SVP BASED IN HORSHAM WHO HEADED UP
9 AT LEAST A PORTION OF THE DISTRESSED ASSET AREA.

10 Q. AND WHO DID MR. LAUERMAN REPORT TO?

11 A. TONY LAUERMAN REPORTED TO MICHAEL CARP IN
12 DALLAS, WHO HEADED UP ALL OF THE REAL ESTATE SOLUTIONS.

13 Q. AND MR. CARP REPORTED TO MR. LIPSON?

14 A. IT TURNED -- AGAIN, THERE WERE LOTS OF
15 ORGANIZATIONAL CHANGES GOING ON, BUT HIS AREA WAS BEING
16 MERGED INTO THE SERVICING AREA. HE DIDN'T ALWAYS REPORT
17 TO MIKE LIPSON, BUT THAT WAS ONE OF THE THINGS THAT WAS
18 OCCURRING AND THAT WAS ANNOUNCED EARLIER THAN THE
19 ANNOUNCEMENT TO MOVE THE ASSET MANAGEMENT. SO, AGAIN,
20 IT WAS ALL PART OF THIS EFFICIENCY INITIATIVE.

21 Q. I THINK YOU PROBABLY HEARD ME IN THE OPENING
22 MENTION YET ANOTHER ACRONYM, WHICH IS SPG PORTFOLIO.

23 CAN YOU DESCRIBE TO THE MEMBERS OF THE
24 JURY WHAT THE SPG PORTFOLIO WAS?

25 A. SURE. FIRST OF ALL, IT WAS AN ACRONYM FOR

1 STRUCTURED PRODUCT GROUP. IT'S A PORTFOLIO OF LOANS
2 THAT WERE ORIGINATED OUT OF OUR DENVER OFFICE. THEY
3 WERE MANAGED BY SEVERAL INDIVIDUALS, BUT THE TWO
4 CRITICAL -- TWO KEY PEOPLE WERE A PERSON BY THE NAME OF
5 MARIN STEINBERG AND NATHAN PERRY. BECAUSE OF ALL OF THE
6 CHANGES GOING ON IN THE ORGANIZATION, MARIN WAS -- I
7 THINK SHE WAS EITHER VP OR SVP MANAGING DIRECTOR.

8 BECAUSE OF THE CHANGES, BECAUSE OF WHAT
9 SOME PEOPLE PERCEIVED AS, YOU KNOW, CERTAINTY, SHE HAD
10 ANNOUNCED IN EITHER LATE FEBRUARY OF 2006 OR EARLY MARCH
11 OF 2006 THAT SHE WAS LEAVING THE COMPANY. SHE WAS AN
12 EXTREMELY EXPERIENCED, TALENTED INDIVIDUAL WHO DID,
13 AGAIN, BOTH UNDERWRITING AND ASSET MANAGEMENT. SHE HAD
14 SOME REALLY COMPLEX LOANS, SOME REALLY -- EXCUSE THE
15 EXPRESSION, BUT FUNKY STRUCTURES, IN TERMS OF HOW
16 THINGS WORKED. THAT PORTFOLIO, I WOULD DESCRIBE AS
17 UNIQUE, IN THAT MANY OF THE SPONSORS WERE FRIENDS OF THE
18 MANAGEMENT OF -- THEY CALLED THE DENVER OFFICE CAPITAL
19 CORPORATION. WHEN SHE ANNOUNCED THAT SHE WAS LEAVING, I
20 PLANNED A TRIP TO GO OUT THERE. I TOOK ONE OF OUR
21 JUNIOR PEOPLE OUT THERE WITH ME, JUST TO GET A BETTER
22 HANDLE ON THE PORTFOLIO AND WHAT WAS GOING ON WITH IT.

23 FROM TAKING A LOOK AT THE PORTFOLIO,
24 SPENDING A COUPLE OF DAYS OUT THERE, LOOKING AT THE
25 FILES, TALKING TO THE OPERATIONAL PEOPLE, TALKING TO

1 MARIN, TALKING TO NATHAN I, QUITE FRANKLY, WAS A LITTLE
2 BIT CONCERNED WITH HOW CLOSE SOME OF OUR MANAGERS WERE
3 WITH HOW -- WITH THE ACTUAL OPERATORS OF THE PORTFOLIO.

4 IN ADDITION, THERE WERE PARTS OF THEIR
5 PORTFOLIO THAT WERE CLEARLY PROBLEMS. BUT A LOT OF
6 TIMES WHAT HAPPENS WITH LENDERS IS THAT THE
7 UNDERWRITERS, THE LENDERS CAN BE SO CLOSE TO A PROPERTY
8 OR SO CLOSE TO A PROJECT, THEY DON'T REALIZE THAT IT'S A
9 PROBLEM AND NEEDS TO BE ADDRESSED.

10 Q. NOW, JUST SO WE ARE CLEAR, SPG PORTFOLIO, HAD
11 YOU HAD RESPONSIBILITY FOR MANAGING IT?

12 A. YOU KNOW, IF YOU LOOK -- IT MIGHT HAVE BEEN
13 ANNOUNCED THAT IT WAS PART OF MY ASSET MANAGEMENT
14 FUNCTION, BUT, IN FACT, MARIN WAS A COMPLETE FREE AGENT
15 ON HER OWN. SHE RAN THAT PORTFOLIO, AND SHE PROTECTED
16 THAT PORTFOLIO. SO UP UNTIL THE TIME THAT SHE LEFT, I
17 DIDN'T HAVE ANY DAY-TO-DAY INTERACTION WITH ANYONE ON
18 THAT PORTFOLIO.

19 Q. TO WHAT EXTENT HAD YOU BEEN RESPONSIBLE FOR
20 CREATING AND DEFENDING THE RISK RATINGS FOR THAT
21 PORTFOLIO?

22 A. I HAD NOT HAD ANY RESPONSIBILITY, NOR DID I SIT
23 IN ON ANY OF THOSE MEETINGS.

24 Q. WHO HAD DONE THAT UP UNTIL THE POINT --

25 A. MARIN AND NATHAN PERRY.

1 Q. OKAY. NOW, AT SOME POINT DID YOU REALIZE THAT
2 YOU WERE GOING TO TAKE OVER THAT PORTFOLIO?

3 A. YES, I DID. WITH MARIN LEAVING AND WITH --
4 BECAUSE, AGAIN, MARIN REPORTED TO THE DENVER PEOPLE, AND
5 LIKE SO MANY THINGS IN LIFE, THINGS ARE POLITICAL, SO
6 FROM MY PERSPECTIVE MARIN WAS EXPERIENCED, SHE KNEW WHAT
7 SHE WAS DOING. IF SHE WAS SIGNING OFF ON THOSE RISK
8 RATINGS AND FELT COMFORTABLE THAT THEY WERE ADEQUATELY
9 RISK RATED, I DEFERRED TO HER EXPERTISE OR COMPETENCE,
10 AFTER SEEING KIND OF WHAT WAS GOING ON OUT THERE, I DID
11 NOT FEEL AS COMFORTABLE AND KNEW THAT I NEEDED SOMEONE
12 WHO COULD SPEND MORE TIME LOOKING AT THE PORTFOLIO AND
13 FIGURING OUT WHETHER OR NOT THE RISK PROFILE WAS
14 ACCURATE.

15 MR. SALMANSON: THERE IS A WHOLE SET OF
16 DOCUMENTS THAT ARE GOING TO BE INTRODUCED RELATED TO
17 THIS PORTFOLIO, AND I THINK BEFORE WE GET INTO THOSE, IT
18 MIGHT MAKE SENSE TO STOP RIGHT HERE.

19 THE COURT: EXCELLENT.

20 LADY AND GENTLEMEN, WE ARE GOING TO
21 ADJOURN FOR THE DAY. WE WILL RESUME TOMORROW MORNING AT
22 9:30. PLEASE DO NOT TALK ABOUT THE CASE AMONG
23 YOURSELVES OR WITH OTHERS. SEE YOU BACK AT 9:30
24 TOMORROW MORNING. HAVE A GOOD EVENING. YOU ARE
25 EXCUSED.

1 WE ARE ADJOURNED FOR THE DAY, AND I WILL
2 SEE YOU BACK AND BE ON TIME. 9:30 TOMORROW MORNING, ALL
3 RIGHT.

4 (COURT ADJOURNED AT 4:25 P.M.)

5

6 I CERTIFY THAT THE FOREGOING IS A CORRECT
7 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
8 ABOVE-ENTITLED MATTER.

9

10

11 DATE SUZANNE R. WHITE
12 OFFICIAL COURT REPORTER

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